

**IN THE UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

-----X
IN RE : Chapter 9
CITY OF DETROIT, MICHIGAN, : Case No. 13-53846
DEBTOR : Hon. Steven W. Rhodes
-----X

CITY OF DETROIT'S COUNTER-DESIGNATION OF RECORD ON APPEAL

The City of Detroit (the “City”), by and through its undersigned counsel, pursuant to Rule 8006 of the Federal Rules of Bankruptcy Procedure, hereby submits this counter-designation of items to be included in the record on appeal, in response to *Appellant’s Designation of Record on Appeal and Statement of Issues*, filed on July 25, 2014 by Appellant Albert O’Rourke [Docket No. 6256]. Copies of all items designated are attached.

COUNTER-DESIGNATION OF ITEMS TO BE INCLUDED IN THE RECORD

1. Debtor’s Objection to Claim No. 458 Filed by Albert Otto O’Rourke [Docket No. 4872, filed May 15, 2014]
2. Debtor’s Reply to Response to Objection to Claim No. 458 filed by Albert O’Rourke [Docket No. 5503, filed June 20, 2014]
3. Transcript of Hearing Held June 25, 2014, pp. 13-14.
4. Notice of Appeal [Docket No. 5995, filed July 14, 2014]

Dated: August 7, 2014

Respectfully submitted,

FOLEY & LARDNER LLP

By: /s/ Tamar N. Dolcourt

John A. Simon (P61866)
Tamar N. Dolcourt (P73425)
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**IN THE UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
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In re : Chapter 9
CITY OF DETROIT, MICHIGAN, : Case No. 13-53846
Debtor : Hon. Steven W. Rhodes
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**DEBTOR'S OBJECTION TO CLAIM NUMBER 458
FILED BY ALBERT OTTO O'ROURKE**

The Debtor, the City of Detroit (the “City”), by and through its undersigned counsel, for its objection to claim number 458 (the “Claim”) and its request for an order disallowing and expunging the Claim, substantially in the form attached hereto as Exhibit 1, respectfully states as follows:

JURISDICTION AND VENUE

1. This Court has jurisdiction over this Objection pursuant to 28 U.S.C. §§157 and 1334. This is a core proceeding pursuant to 28 U.S.C. §157(b). Venue is proper before this Court pursuant to 28 U.S.C. §§1408 and 1409.

BACKGROUND FACTS

2. On July 18, 2013 (the “Petition Date”), the City filed a petition for relief in this Court, thereby commencing the largest chapter 9 bankruptcy case in history.

3. Information regarding the City’s economic challenges and the events leading up to the filing of this case can be found in the *Declaration of Kevyn D. Orr in Support of City of*



Detroit, Michigan's Statement of Qualifications Pursuant to Section 109(c) of the Bankruptcy Code filed on July 18, 2013 (Docket No. 11).

4. On December 5, 2013, this Court held that the City was eligible for relief under chapter 9 of the Bankruptcy Code. *See Order for Relief Under Chapter 9 of the Bankruptcy Code* (Docket No. 1946).

5. On November 21, 2013, this Court issued its *Order, Pursuant to Sections 105, 501, and 503 of the Bankruptcy Code and Bankruptcy Rules 2002 and 3003(c), Establishing Bar Dates for Filing Proofs of Claim and Approving Form and Manner of Notice Thereof* (Docket No. 1782) (the “Bar Date Order”) establishing deadlines to file certain proofs of claim in this case. The Bar Date Order set the deadline to file proofs of claim as February 21, 2014 at 4:00 p.m., Eastern Time (the “Bar Date”).

6. On December 27, 2013, Albert Otto O'Rourke filed the Claim. A copy of the as-filed Claim is attached hereto as Exhibit 2.

7. The Claim seeks \$1 trillion.

8. The stated basis for the Claim is “Governmental abuses by City of Detroit and Agent.”

9. More specifically, the sole attachment to the Claim, a handwritten Exhibit A, states that the City lost or destroyed certain nuclear research materials related to the “Manhattan Project” which were located at 2175 Palms Avenue in Detroit, Michigan.

10. The Claim does not contain any information to support Mr. O'Rourke's allegation that the City owes him \$1 trillion. It does not identify the circumstances supporting the alleged loss or destruction of the property, the date upon which the alleged actions occurred, or any

information supporting the stated claim amount of \$1 trillion, including any information about the value of the property at issue, or any other information supporting the stated claim.

11. Furthermore, the Claim does not contain any documents which evidence Mr. O'Rourke's ownership of the property which was allegedly destroyed or lost by the City.

12. Exhibit A notes other court cases which Mr. O'Rourke states are related to the Claim. Mr. O'Rourke filed a case in the United States District Court for the Southern District of California (the "District Court Matter"), Case No. 10-cv-00302. A copy of the First Amended Complaint (Docket No. 14) in the District Court Matter is attached hereto as Exhibit 3. The District Court matter refers to actions taken on February 9, 2010 in La Jolla, California, possibly with respect to some of the same materials.

13. The City reviewed the PACER records of the District Court Matter. Mr. O'Rourke sued multiple defendants in that matter: the United States, the University of California, the County of San Diego, the City of San Diego, the Attorney General of California, ATC, Inc., Jerry Brown, Eric Holder, B. George Seikaly, Lori Bay, Bonnie Bretillo, Eric Dye, William Kellogg, Jr., La Jolla Beach and Tennis Club, San Diego Chase Bank, Union Bank, the County Marshall's Office, San Diego Superior Court, San Diego Police Department, and Does 1-100. The City was not a defendant in that matter. Mr. O'Rourke alleged numerous causes of action against the Defendants, including intentional infliction of emotional distress, violation of 18 U.S.C. 2340 [contains the definition of torture], violations of Section 13 or Section 15(d) of the United States Securities Exchange Act of 1934, invasion of privacy, legal trespass, invasion of/slander of rights of title, and sought declaratory and injunctive relief.¹ Ultimately the District

¹ Exhibit A also refers to one or more cases filed in San Diego Superior Court more than 20 years ago which involve Mr. O'Rourke. Electronic records for those cases are unavailable.

Court Matter was dismissed for want of prosecution (Docket No. 17) on December 20, 2010. The Ninth Circuit Court of Appeals affirmed the dismissal on March 8, 2013 (Docket No. 24).

RELIEF REQUESTED

14. The City files this objection pursuant to the Section 502(b)(1) of the Bankruptcy Code, and Federal Rule of Bankruptcy Procedure 3001, seeking entry of an order disallowing and expunging the Claim because there is no basis for the Claim and it is not enforceable against the City.

BASIS FOR RELIEF REQUESTED

a. *The Claim Does Not Meet the Validity Standards of Rule 3001(f) and Should Be Disallowed*

15. Only proofs of claim that comply with Rule 3001 are presumed to be valid in the amount filed. Rule 3001(f).

16. In order to meet the requirements of Rule 3001(f), a properly-filed proof of claim must contain the following: (1) the creditor's name and address; (2) the basis for the claims; (3) the date the debt was incurred; (4) the amount of the claim; (5) classification of the claim; and (6) supporting documents. *In re Hughes*, 313 B.R. 205, 209 (Bankr. E.D. Mich. 2004) (McIvor, J.) (citing *In re Dow Corning Corp.*, 250 B.R. 298, 321 (Bankr. E.D. Mich. 2000)).

17. The Claim does not contain the information required by 3001(f). It does not identify the basis for the claim. There is no explanation of the circumstances which led to the destruction or loss of the property. It does not detail the property at issue, the value of that property, or the ownership of the property. It does not identify the date upon which the alleged action occurred, and it does not provide any information or documents to support the calculation

of the claim amount. The Claim does not explain why the City is liable to Mr. O'Rourke for \$1 trillion.

18. The Claim fails to meet the standards of Rule 3001(f), and should not be considered either valid, nor should its stated value of \$1 trillion be accepted by this Court. Rather, the Claim should be disallowed and expunged.

b. *Even if the Court Finds the Claim Meets the Standards of Rule 3001(f), Mr. O'Rourke Still Has the Ultimate Burden to Prove the Validity of the Claim After the City's Objection, Which He Cannot.*

19. Courts have held that when a proof of claim meets the requirements for Rule 3001(f), it is considered *prima facie* evidence of validity and amount. *Id.* at 208. The objecting party must then present its own evidence challenging the validity of the proof of claim. *Dow Corning*, 250 B.R. at 321. If it does so, then the ultimate burden of persuasion on the proof of claim shifts back to the claimant. *Id.*

20. In *Dow*, the United States Government filed multiple proofs of claim involving beneficiaries of government health care programs who had breast implant surgery. *Id.* at 307. The Debtor challenged the information provided in the proofs of claim, because among other things, they did not provide specific information regarding the medical procedures, whether Dow products had even been used in the procedures, or how the amount of the claim had been calculated. *Id.* at 322. The Court deemed this lack of supporting documentation sufficient to challenge the *prima facie* validity of the Government's claims and shift the burden of persuasion back to the Government. *Id.*

21. Here, as in *Dow*, the lack of supporting information and documentation regarding the Claim, including the failure to explain the circumstances of the alleged action by the City, identify the owner of the property at issue, the date of the alleged loss or destruction, and any

basis for the asserted claim amount of \$1 trillion are sufficient to challenge the prima facie validity of the Claim and shift the ultimate burden of persuasion back to Mr. O'Rourke.

22. Mr. O'Rourke is unable to meet this burden based on the documentation provided with the Claim. Based on the Claim, the City cannot even identify the property which was allegedly lost or destroyed, the owner of that property, the events which alleged led to the destruction or loss of the property, let alone the basis of the \$1 trillion purported value of that property. The Claim does not contain any information to support it. As such, it should be disallowed and expunged.

RESERVATION OF RIGHTS

23. The City files this Objection without prejudice to or waiver of its rights pursuant to section 904 of the Bankruptcy Code, and nothing herein is intended to, shall constitute or shall be deemed to constitute the City's consent, pursuant to section 904 of the Bankruptcy Code, to this Court's interference with (a) any of the political or governmental powers of the City, (b) any of the property or revenues of the City or (c) the City's use or enjoyment of any income-producing property.

NOTICE

24. The City has provided notice of this Objection to the claimant identified on Proof of Claim No. 458 and all parties that have requested notice in this case pursuant to Bankruptcy Rule 2002. In light of the nature of the relief requested, the City respectfully submits that no other or further notice of the relief requested in this Objection need be given.

NO PRIOR REQUEST

25. No previous request for the relief requested herein has been made to this or any other court.

WHEREFORE, the City respectfully requests that this Court enter an order, substantially in the form annexed hereto as Exhibit 1, granting the relief requested herein and granting the City such other and further relief as this Court may deem just and proper.

Dated: May 15, 2014

FOLEY & LARDNER LLP

By: /s/ Tamar N. Dolcourt

John A. Simon (P61866)
Tamar N. Dolcourt (P73425)
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*Counsel for the Debtor, City of Detroit,
Michigan*

**IN THE UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

-----x
In re : Chapter 9
CITY OF DETROIT, MICHIGAN, : Case No. 13-53846
Debtor : Hon. Steven W. Rhodes
-----x

**NOTICE OF DEBTOR'S OBJECTION TO CLAIM NUMBER 458
FILED BY ALBERT O'ROURKE**

PLEASE TAKE NOTICE THAT the Debtor, the City of Detroit, (the “City”), by and through its undersigned counsel, has filed an objection to claim number 458 filed Albert O’Rourke (the “Objection”) and for an order disallowing and expunging such claim.

If you do not want the court to eliminate or change your claim, or grant the relief request in the Objection, then on or before **June 18, 2014**, you or your lawyer must:

1. File with the court, at the address below, a written response to the objection. Unless a written response is filed and served by the date specified, the court may decide that you do not oppose the objection to your claim.

Clerk of the Court
United States Bankruptcy Court
211 W. Fort Street, Suite 2100
Detroit, MI 48226

If you mail your response to the Court for filing, you must mail it early enough so that the Court will receive it on or before the date stated above. All attorneys are required to file pleadings electronically.

2. A copy of your response must also be mailed to counsel for the City:

John A. Simon
Tamar N. Dolcourt
Foley & Lardner LLP
500 Woodward Ave., Ste. 2700
Detroit, MI 48226

3. You must also attend the hearing on the objection scheduled to be held on **June 25, 2014** at 10:00 a.m. in Courtroom 100, United States Federal Courthouse, 231 W. Lafayette Ave., Detroit, MI 48226 unless your attendance is excused by mutual agreement between yourself and the objector's attorney.

If you or your attorney do not take these steps, the court may decide that you do not oppose the objection to your claim, in which event the hearing will be canceled and the objection sustained.

Date: May 15, 2014

FOLEY & LARDNER LLP

By: /s/ Tamar N. Dolcourt
John A. Simon (P61866)
Tamar N. Dolcourt (P73425)
500 Woodward Ave., Ste. 2700
Detroit, MI 48226
313.234.7100
joneill@foley.com
jsimon@foley.com
tdolcourt@foley.com
*Counsel for the Debtor, City of Detroit,
Michigan*

EXHIBIT 1: PROPOSED ORDER

4816-6929-3083.2

**IN THE UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

----- X
In re : Chapter 9
CITY OF DETROIT, MICHIGAN, : Case No. 13-53846
Debtor : Hon. Steven W. Rhodes
----- X

**ORDER GRANTING DEBTOR'S OBJECTION TO CLAIM NUMBER 458
FILED BY ALBERT OTTO O'ROURKE**

Upon the Debtor's Objection to Claim No. 458, dated May 15, 2014 (the "Objection"),² of the Debtor, City of Detroit, Michigan, (the "City"), seeking entry of an order disallowing and expunging Claim No. 458 (the "Claim"), and it appearing that this Court has jurisdiction over the Objection pursuant to 28 U.S.C. §§ 157 and 1334; and the Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and the Court having found that venue of this proceeding and the Objection in this District is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and it appearing that the relief requested in the Objection is in the best interests of the City, and its creditors; and due and proper notice of the Objection having been given as provided in the Objection; and it appearing that no other or further notice of the Objection need be given; and a hearing on the Objection having been held before the Court; and any objections to the Objection having been overruled or withdrawn; and the Court finding that the legal and factual bases set forth in the Objection and at the hearing

² Capitalized terms used but not otherwise defined herein shall have the meaning ascribed to them in the Objection.

establish just cause for the relief granted; and after due deliberation and good and sufficient cause appearing therefore; it is hereby

ORDERED, DECREED AND ADJUDGED that:

1. The Objection is granted as set forth herein.
2. Claim No. 458 is hereby disallowed and expunged, pursuant to Section 502(b) of the Bankruptcy Code.
3. The City's claims agent is hereby authorized to update the claims register to reflect the relief granted in this Order.
4. The City is authorized to take all actions necessary to effectuate the relief granted pursuant to this Order in accordance with the Objection.
5. Notice of the Objection as provided therein is good and sufficient notice of such objection, and the requirements of Bankruptcy Rule 3007(a) and the local rules of the Court are satisfied by such notice.

EXHIBIT 2: CLAIM NO. 458

4816-6929-3083.2

B10 (Official Form 10) (04/13)

UNITED STATES BANKRUPTCY COURT		PROOF OF CLAIM FILED
Name of Debtor: <u>CITY OF DETROIT</u> <u>EASTERN DISTRICT OF MICHIGAN</u>	Case Number: 13-53846	2013 DEC 27 P D: 371
NOTE: Do not use this form to make a claim for an administrative expense that arises after the bankruptcy filing. You may file a request for payment of an administrative expense according to 11 U.S.C. § 503.		J.S. BANKRUPTCY COURT E.D. MICHIGAN-DETROIT
Name of Creditor (the person or other entity to whom the debtor owes money or property): <u>ALBERT OTTO O'Rourke</u>		COURT USE ONLY
Name and address where notices should be sent: <u>2316 PASCO DELAUREL #223</u> <u>OCEANSIDE, CA 92056</u> Telephone number: (760) 453-2218 email:		<input type="checkbox"/> Check this box if this claim amends a previously filed claim. Court Claim Number: _____ Filed on: _____
Name and address where payment should be sent (if different from above): <u>N/A (Same as Above)</u>		<input type="checkbox"/> Check this box if you are aware that anyone else has filed a proof of claim relating to this claim. Attach copy of statement giving particulars.
Telephone number: _____ email: _____		
1. Amount of Claim as of Date Case Filed: \$ <u>1,000,000,000 (One Trillion Dollars)</u>		
If all or part of the claim is secured, complete item 4.		
If all or part of the claim is entitled to priority, complete item 5.		
<input type="checkbox"/> Check this box if the claim includes interest or other charges in addition to the principal amount of the claim. Attach a statement that itemizes interest or charges.		
2. Basis for Claim: <u>GOVERNMENTAL ABUSES BY CITY OF DETROIT</u> (See instruction #2) <u>(See ATTACHED Exhibit A)</u> ARE ASSETS		
3. Last four digits of any number by which creditor identifies debtor: <u>N/A</u>	3a. Debtor may have scheduled account as: <u>2175 PALMS AVE</u> (See instruction #3a) <u>DETROIT</u> <u>MICHIGAN</u>	3b. Uniform Claim Identifier (optional): <u>N/A</u> (See instruction #3b)
4. Secured Claim (See instruction #4) Check the appropriate box if the claim is secured by a lien on property or a right of setoff, attach required redacted documents, and provide the requested information.		
Nature of property or right of setoff: <input type="checkbox"/> Real Estate <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Other Describe: _____		Basis for perfection: _____
Value of Property: \$ _____ <u>N/A</u>		Amount of Secured Claim: \$ <u>N/A</u> <u>1,000,000,000</u> <u>One Trillion Dollars!</u>
Annual Interest Rate _____ % <input type="checkbox"/> Fixed or <input type="checkbox"/> Variable (when case was filed)		Amount Unsecured: \$ <u>1,000,000,000</u>
5. Amount of Claim Entitled to Priority under 11 U.S.C. § 507 (a). If any part of the claim falls into one of the following categories, check the box specifying the priority and state the amount.		
<input type="checkbox"/> Domestic support obligations under 11 U.S.C. § 507 (a)(1)(A) or (a)(1)(B). <input type="checkbox"/> Up to \$2,775* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use – 11 U.S.C. § 507 (a)(7).		
<input type="checkbox"/> Wages, salaries, or commissions (up to \$12,475*) earned within 180 days before the case was filed or the debtor's business ceased, whichever is earlier – 11 U.S.C. § 507 (a)(4). <input type="checkbox"/> Taxes or penalties owed to governmental units – 11 U.S.C. § 507 (a)(8).		
<input type="checkbox"/> Contributions to an employee benefit plan – 11 U.S.C. § 507 (a)(5). <input checked="" type="checkbox"/> Other – Specify applicable paragraph of 11 U.S.C. § 507 (a)(____). <i>See ATTACHED Exhibit "A"</i>		
*Amounts are subject to adjustment on 4/01/16 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment.		
6. Credits. The amount of all payments on this claim has been credited for the purpose of making this proof of claim. (See instruction #6) <u>N/A</u>		



7. Documents: Attached are **redacted** copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, security agreements, or, in the case of a claim based on an open-end or revolving consumer credit agreement, a statement providing the information required by FRBP 3001(c)(3)(A). If the claim is secured, box 4 has been completed, and **redacted** copies of documents providing evidence of perfection of a security interest are attached. If the claim is secured by the debtor's principal residence, the Mortgage Proof of Claim Attachment is being filed with this claim. (See instruction #7, and the definition of "redacted".)

DO NOT SEND ORIGINAL DOCUMENTS. ATTACHED DOCUMENTS MAY BE DESTROYED AFTER SCANNING.

If the documents are not available, please explain: - Court Document will be sent if necessary (see Attached Exhibit A)

8. Signature: (See instruction #8)

John

Check the appropriate box.

I am the creditor. I am the creditor's authorized agent.

I am the trustee, or the debtor, or their authorized agent.
(See Bankruptcy Rule 3004.)

I am a guarantor, surety, indorser, or other codebtor.
(See Bankruptcy Rule 3005.)

I declare under penalty of perjury that the information provided in this claim is true and correct to the best of my knowledge, information, and reasonable belief.

Print Name: *Albert Otto O'Rourke*

Title:

Company:

Address and telephone number (if different from notice address above):

*2316 PASCO DELA VINA
OCEANSIDE, CA. 92054 #223*

Telephone number: *(760) 453-2213*

Penalty for presenting fraudulent claim: Fine of up to \$500,000 or imprisonment for up to 5 years, or both. 18 U.S.C.

John

(Signature)

12/27/2013

(Date)

RECEIVED

JAN 09 2014

KURTZMAN CARSON CONSULTANTS

INSTRUCTIONS FOR PROOF OF CLAIM FORM

The instructions and definitions below are general explanations of the law. In certain circumstances, such as bankruptcy cases, exceptions to these general rules may apply.

Items to be completed in Proof of Claim form

Court, Name of Debtor, and Case Number:

Fill in the federal judicial district in which the bankruptcy case was filed (for example, Central District of California), the debtor's full name, and the case number. If the creditor received a notice of the case from the bankruptcy court, all of this information is at the top of the notice.

claim is entirely unsecured. (See Definitions.) If the claim is secured, check the box for the nature and value of property that secures the claim, attach copies of lien documentation, and state, as of the date of the bankruptcy filing, the annual interest rate (and whether it is fixed or variable), and the amount past due on the claim.

Creditor's Name and Address:

Fill in the name of the person or entity asserting a claim and the name and address of the person who should receive notices issued during the bankruptcy case. A separate space is provided for the payment address if it differs from the notice address. The creditor has a continuing obligation to keep the court informed of its current address. See Federal Rule of Bankruptcy Procedure (FRBP) 2002(g).

5. Amount of Claim Entitled to Priority Under 11 U.S.C. § 507 (a).

If any portion of the claim falls into any category shown, check the appropriate box(es) and state the amount entitled to priority. (See Definitions.) A claim may be partly priority and partly non-priority. For example, in some of the categories, the law limits the amount entitled to priority.

1. Amount of Claim as of Date Case Filed:

State the total amount owed to the creditor on the date of the bankruptcy filing. Follow the instructions concerning whether to complete items 4 and 5. Check the box if interest or other charges are included in the claim.

6. Credits:

An authorized signature on this proof of claim serves as an acknowledgment that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

2. Basis for Claim:

State the type of debt or how it was incurred. Examples include goods sold, money loaned, services performed, personal injury/wrongful death, car loan, mortgage note, and credit card. If the claim is based on delivering health care goods or services, limit the disclosure of the goods or services so as to avoid embarrassment or the disclosure of confidential health care information. You may be required to provide additional disclosure if an interested party objects to the claim.

7. Documents:

Attach redacted copies of any documents that show the debt exists and a lien secures the debt. You must also attach copies of documents that evidence perfection of any security interest and documents required by FRBP 3001(c) for claims based on an open-end or revolving consumer credit agreement or secured by a security interest in the debtor's principal residence. You may also attach a summary in addition to the documents themselves. FRBP 3001(c) and (d). If the claim is based on delivering health care goods or services, limit disclosing confidential health care information. Do not send original documents, as attachments may be destroyed after scanning.

3. Last Four Digits of Any Number by Which Creditor Identifies Debtor:

State only the last four digits of the debtor's account or other number used by the creditor to identify the debtor.

8. Date and Signature:

The individual completing this proof of claim must sign and date it. FRBP 9011. If the claim is filed electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what constitutes a signature. If you sign this form, you declare under penalty of perjury that the information provided is true and correct to the best of your knowledge, information, and reasonable belief. Your signature is also a certification that the claim meets the requirements of FRBP 9011(b). Whether the claim is filed electronically or in person, if your name is on the signature line, you are responsible for the declaration. Print the name and title, if any, of the creditor or other person authorized to file this claim. State the filer's address and telephone number if it differs from the address given on the top of the form for purposes of receiving notices. If the claim is filed by an authorized agent, provide both the name of the individual filing the claim and the name of the agent. If the authorized agent is a servicer, identify the corporate servicer as the company. Criminal penalties apply for making a false statement on a proof of claim.

3a. Debtor May Have Scheduled Account As:

Report a change in the creditor's name, a transferred claim, or any other information that clarifies a difference between this proof of claim and the claim as scheduled by the debtor.

3b. Uniform Claim Identifier:

If you use a uniform claim identifier, you may report it here. A uniform claim identifier is an optional 24-character identifier that certain large creditors use to facilitate electronic payment in chapter 13 cases.

4. Secured Claim:

Check whether the claim is fully or partially secured. Skip this section if the

"Exhibit A"

① This claim is "related to", in part based upon, 2175 Palms Ave (O'Rourke Home no 1), Detroit, Michigan, of which claimant O'Rourke believes he is entitled to claim against, because of the destruction or loss of such by City of Detroit with the loss of some of the documents, nuclear letters, photos, research papers, University ("Manhattan Project") of Michigan papers / Canada etc. Such being related to the illegal seizure and destruction (MAXWELL TECHNOLOGIES INC MXWL) of duplicator or other Nuclear Physics SAIC papers of the late Dr. Raymond Clifford (The "Green STACK") UCSD O'Rourke at the Second O'Rourke property (See USDC-SD 10cv-0302(w) May 26, 2010 Court Order (FRCP 12(b) Motion) page 5 lines 20-21 of San Diego Superior Court 566159, 615878, P19300L inter alia). Said "second seizure" of the "Green STACK" 7949 Lowry Terrace, La Jolla, CA by the government on/after/ continuing 92037 as of Feb 9, 2010.

② ~~18-53046-SMC-DOD-00025-3 Filed 08/12/14 Entered 08/14/14 10:55:31 Page 18 of 99~~ Plaintiff will provide court documents, if possible, to US Government.

EXHIBIT 3: FIRST AMENDED COMPLAINT IN DISTRICT COURT MATTER

4816-6929-3083.2

1 ALBERT (AL) O'Rourke
2 7949 Lowry Terrace
3 La Jolla, CA 92037
4 (858)272-6876 (message)

5 Plaintiff In Pro Se
6

7
8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA
10
11

12
13 ALBERT O'Rourke
14 Plaintiff
15

16 VS.

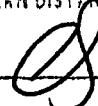
17 UNITED STATES, ERIC
18 HOIDER, B. GEORGE SEIKALY,
19 ERIC DYE, UNIVERSITY OF
20 CALIFORNIA, JERRY Brown,
21 CALIFORNIA ATTORNEY GENERAL
22 SAN DIEGO COUNTY, SANDIEGO
23 POLICE Dept. UNION BANK
24 CHASE BANK, SAN Diego
25 SUPERIOR Court, Lori Bays,
26 Bonnic Brettillo, SAN Diego County
27 MARSHALL's Office, DOES 1-1000
28

Defendants

FILED

2010 JUN -9 PM 2:24

CLERK US DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

BY  DEPUTY

CASE NO.,
10-CV-0302
(PDR)
(W)

PLAINTIFF;
FIRST AMENDMENT
COMPLAINT

1 Comes Now Plaintiff ALBERT (AL "Chir")
2 O'Rourke with his Fist Amendment
3 Complaint (Incorporating by Reference
4 The Original Complaint and Proceedings
5 On File in This Case) and Alleges as follows.
6 Against Defendants, the following.

7 I
8

9 FIRST CAUSE OF ACTION
10 Intentional Infliction
11 OF Emotional Distress.

12
13 (1) On Sept 11, 2001 ("9-11") Plaintiff
14 Father, Raymond O'Rourke, residing at
15 7949 Lowry Terrace La Jolla, California,
16 also Plaintiff's residence and home for
17 four decades at that time, and continuing
18 now as such (Admitted by the Court in its
19 May 26, 2010 Order) (page 5, lines 20-21)
20 was watching Television (9-10 am +/-?)
21 with AL O'Rourke serving him his light
22 Breakfast.

23 (2) When the horrific events of "9-11"
24 started to appear on Television, Plaintiff's
25 father stated "This is a terrible world"
26 and collapsed. AL O'Rourke was totally shocked.
27 And had to CALL AN AMBULANCE
28

1 (3) Raymond O'Rourke, despite predictions
 2 of the Doctors at Scripps Hospital La Jolla,
 3 California, that Raymond would not survive
 4 (and should be "terminated") (which AL O'Rourke
 5 objected to) did survive. And partially.
 6 it not wholly recovered (RAYmond's
 7 brain functions remained fully unaffected,
 8 he simply had to accept being less
 9 physically energetic (though he still
 10 drove his car).

11 (4). Defendants were, are fully aware that
 12 AL O'Rourke, Raymond's (now retired)
 13 Attorney (see SDSC 566159 or U.S. Tax
 14 Court Case 89-13052 for example)
 15 AL O'Rourke and Raymond O'Rourke had
 16 numerous ^{Joint} family business (such as the
 17 O'Rourke Residential Care Home (at said same
 18 7949 Long Terras) and Yacht Charters Ltd
 19 (see SDMC 025114 or U.S. 96-CV-14425m)
 20 RORACK (a Maryland partnership with
 21 Alan C Kolb ("CK") (ROR = Raymond O'Rourke)
 22 (and into which all real and personal
 23 property right, go into (i.e. Maryland Law
 24 NOT California). Such being originally
 25 ^{STATE} _{LAW}
 26 set up by Maryland Attorney Phil Ryan in 1967-68

(5) Other joint Raymond/AL businesses
 Some of such with other parties too) being Contracted,

Lattice Electromagnetics Inc (Albuquerque
 New Mexico)
Inject
Volunteers Management Services, Inc.,
O'Rourke & Associates, Inc., Mary (O'Rourke)
Gravity Products, Inc) "Fearless Pete's Company
 (The illustrations for the "Train",
O'Rourke's Book and others, Raymond
 (See U.S. Tax Court case 89-13052).

(6) "Simply put" made a significant return on the "Tri-Party" (Joint Tri-) Partnership of Raymond, May, Albert O'Leary. Such is indisputable, since Defendant United States put such on the record in said U.S. Tax Court case 89-13052)

(7) Such money will used to pay the
Home Mortgage and Cost, for three decades
At Least (1.770ⁱ, 19.80ⁱ, 19.90ⁱ)

(8) Eventually most of sick money was used up in numerous lawsuits brought by (caused to be brought by Defendant) over the years (SDMC 625114, SDSC 566159, etc).

(RAYMOND)

1 (9) Because of the costs of the Scritts'
2 Hospital Bills, AL O'Rourke had to agree
3 to pay such, through the Raymond O'Rourke
4 power of Attorney (General power)
5 granted to AL O'Rourke from Raymond in
6 2000 (prior to "9-11" (Sept. 11, 2001)).

7 (10) Obviously numerous Scritts contracts,
8 to pay, and be held liable for, had to be,
9 and were signed by AL O'Rourke.

10 (11) AL O'Rourke, obviously, believed the
11 United States Government would pay for
12 such, ultimately, through FEMA or
13 otherwise, because of the "9-11" attack.
14 That is, Raymond's injury being caused
15 by the supposed "Terrorists".

16 (12) In any event, the already indigent
17 AL O'Rourke (since the mid 1990's),
18 had a valid Scritts contract.

19 (13) AL O'Rourke has never authorized any
20 Medi-Cal, or State of California interference,
21 Substitution, Novation, etc by either

22 The City of San Diego, the County of San Diego
23 or the State of California (nor could it anything).
24 AL O'Rourke would have dealt with Maryland (Rocky)

1 (14) Moreover (because of ROBERT/MARY AL)
2 and Hospital Bills for Raymond, which
3 fall into the (presently still open)
4 U.S. Tax Court Case 89-13052)

5 (Since San Diego County (County Council
6 and Defendant B George Schaff) has
7 interfered with such.

8 (15) And there is no dispute that
9 Raymond or AL are "Crime Victims"
10 (victims of "9-11"); That is because in the
11 Probate Court proceedings caused by
12 San Diego County (^{and} the City/ State of California)
13 Superior Court proceedings (~~SDSC P 193-056~~)
14 are served by the County, on the
15 "Crime Victims Unit" of the State of
16 California.

17 (16) In any event, Defendants have
18 Jointly Tortured AL O'Rourke, plaintiff
19 ever since "9-11" (Sept 11, 2001). "Simply
20 put" to "solve" the "O'Rourke Problem".
21 "Once and for all".

1 (17) Defendants knew of the Pendency
2 and Federal Jurisdiction of both
3 U.S.D.C. 09-cv-1375(w) (Arrest) and
4 U.S.D.C. 10-cv-0302 (P.O.R)(w).

7 (18) The State of California (Defendant
8 Jerry Brown, Attorney General),
9 Defendant Secretary and the San Diego
10 Superior Court (Assume "Annoyed"
11 AT AL O'Rourke's jurisdictional
12 Challengers (See Oct 28, 2009 or
13 Jan 25, 2010 SDSC p 193 oot 137-2009
14 sent in a "Small Army" (+/- 50-100) 046962)
15 and STATE OFFICERS, law enforcement,
16 paramedics, Animal Control, Fire Dept,
17 etc. personnel on Feb 9, 2010 (+/- 8AM)
18 ("Tying up" LA Toll Shores traffic for
19 the Day), seizing custody of AL O'Rourke's
20 home and residence. All of no
21 business, local, personal letters, records, C/Pack
22 Bo-(E), m-jrcs, TV, etc.] 6
23
24
25
26
27
28

1 (19) The Defendants (including Defendant
2 ^{Defendant}
United States Government, Eric Holder,
3 The Secret Service, or others, / other Federal
4 Agencies assisting in such) blew out most
5 of the windows, knocked off doors,
6 Tore down walls, etc etc. (A "Pearl Harbor"
7 like, "SNAP ATTACK").

8 (20) Leaving AL O'Rourke with 465+1utch
9 Nothing but the "Clothes on his back".
10 (No Food, No water, No place to stay,
11 No blankets, No clothes, money, anything
12

13 (21) This in the middle of the Worst winter
14 Rain/Cold storms in Decades.

15 (22) They then carted off all supplied
16 "War Booty" All of AL O'Rourke, and
17 Numerous other persons', personal possessions,
18 business records, legal records, etc etc
19 (especially the "JFK" materials
20 (See County Counsel's April 14, 2010
21 letter for example). (RAYMOND O'Rourke
22 and E6+6 and the Dept of the Navy had
23 done the "Physics" Analysis of the JFK
24 ASSASSINATION in 1963.
25
26
27
28

1 (23) They then placed a "King Kong"
2 style (enormous) fence around the
3 premises.

4 (24) Such left AL o'Rourke (and some
5 of the neighbors as well) in total shock
6 and Emotional Distress.
7

8 (25) Such Emotional Distress (a "mini-
9 9-11")
10 was caused by Defendants, jointly,
11 for corrupt and malicious purposes,
12 and to degrade, humiliate, vex and
13 destroy Plaintiff.

14 (26) This is a continuation of prior
15 malicious actions (see USDC 93-1880
16 IEB)
(USDC-01-CV-042341 for example.

17 (Incorporated by reference, but "well
18 known" to the Federal District Court
19 in San Diego (or the U.S. Court of Appeals
20 9th Circuit). (U.C.SD- General Atomics
21 (2010))

22 (27) Especially in light of "Predator"
23 (Extreme low frequency)
24 (Acting Predator-ELF ("mind control")
25 programs (Lattice Electromagnetic, CEA,
26 Louder Medical Clinic (Sam White)).

1 (28) Moreover, even after seizing the
2 Home of AL O'Rourke and all the
3 personal properties of AL O'Rourke and
4 the others (surv), the Defendant United
5 States, continued (and still continues)
6 to track with helicopters (F.A.A.
7 approved (hence Federal) movements
8 of AL O'Rourke (^{standby} ^{Court Counsel's} comment,
9 ^{scirky}
10 That "AL O'Rourke has been "seen"
11 around La Jolla by such legal admission)
12 (29) While with most people, "9-11" is
13 simply a historical/political matter
14 "9-11" is "ur, close and personal"

15 To Plaintiff

16 (30) The United States Attorney
17 (Carl Lam, Robert Brewer, Charles LaBella,
18 (city attorneys)
19 Mike Aguirre, Alan Bersin, Eric Holder
20 (evidently), all being Angered at AL O'Rourke
21 belief that "9-11" was an "Intelligence Failure"
22 caused or invited (Legal "Entrapment")
23 by the United States ^{or Guantanamo Detainees,}
24 Government; itself Gulf of Pearl Harbor)

1 (31) Especially annoying to the U. S.
2 Attorney's Office is the "Entrapment"
3 issue of the supposed 9-11 Terrorist.
4
5 (meaning it these are, in fact, any
6 New York "Terrorist Trials" (Mr. Holder)
7 how is the United States Attorney's office
8 going to not have to disclose to
9 the "Defendant-Terrorists" (Court
10 Appointed Attorney), all the secret
11 Entrapment/Batched Intelligence material,
12 "Simply put", the Motive of Defendant
13 U. S. Government and Mr. Holder.
14 (See Richard Clarke's views)
15 (NSA/CIA)

16 (32) Hence Plaintiff has a legitimate
17 (Cause of Action in International
18 Infliction of Emotional Distress,
19 against Defendant). This as his
20 First Cause of Action.

1

SECOND CAUSE

OF ACTION

VIOLATION OF IS

卷之三

(31) Defendant UNITED STATES and its
"WAR CRIMES" ATTORNEY GENERAL ERIC

WAR CRIMES - All
holders, ss, (And its Agents and assistants)

WAR CRIMES v.
Holder, SS, (and its Agents and Assistants
CAROL Lam, Robert Brewer, Charles L. Bell &
Mike Aguirre, etc (and certainly Defendants
Jerry Brown, California Attorney General
and his Agent, employee, Assistant (FRCP 11)
(sixth Court (State/Federal) pleading))

B George Seikaly know all about
"Shock and awe"

(32) The Feb 9, 2010 "Pearl Harbor Style
JAPANESE
SURPRISE ATTACK" on 7949 low is TRITAC
(plaintiff's home/residence), with 50-100 +/-
common agent) (All Approved, Ratified,
Bank funded (Chase Bank / Union Bank)
Defendant,

WAS NO "OVERNIGHT PLAN". Such had been
planned out for YEAR (at least from 2008
Especially obvious, is Chase Union Bank,⁻²⁰⁰⁹^{TO 2010})
"going AGAINST their own customers/clients"
plaintiff AL ORGANIZATION Home-mortgage, Bank +
Stock Account etc

(33) Such was assisted by the
United States F.A.A. (Helicopters
2-3-4?)

glectfully Surveying, filming, monitoring
the events, of Feb 9, 10 and thereafter
(the continuous "swooping" attacks)
(surveillance) on Plaintiff ever since
(the latest on 6/7/10)

(34) Plaintiff Incorporates by Reference

The facts and circumstances listed in
the First Cause of Action (Supra), and

now alleges that such "Bad Faith" (FRCP 11,
CP 128.5) "Legal Tactics" were ~~and are~~
so odious, injurious, and abysmal.

That they violate 18 U.S.C. 2340.

(35) Defendants on Feb 9, 10, not only destroyed plaintiff's home and residence (and have been "Carpet Bombing the Rubble" ever since. (To make the 1949 Long Term home appear to be a "public nuisance" "Health Hazard or whatever). All the while blocking ingress/egress (the "King Kong" Force survt) and tearing down AL O'ROARKE L&J+ notices.

(36) Plaintiff has even personally delivered duplicate Legal Notices to

CHASE BANK (La Jolla Village Square) and
And in Carrollton, CA.
Demanded THAT CHASE's ATTORNEY'S contact Plaintiff. Their refusal to do such "speaks for itself" (implied admission) of their participation in this conspiratorial plot to destroy the premises, "cover up" the actual Federal Evidence, etc.

(37) All such being ASSISTED by The Defendant United States, (The 2009 Bank Reform Act which funded CHASE's Takeover of Washington Mutual Savings, (assisted by Union Bank)).

(38) Obviously These "CASH KING" Defendants have unlimited money to "Tie up" the Courts, Indigent Plaintiff AL O'Rourke! (i.e., "Judicial Notice" of self-obvious events)

(39) Moreover, Since CHASE BANK is mainly in New York, There is also ~~the~~ New York Jurisdiction (in addition to the Maryland Jurisdiction of BORACK (a Maryland Partnership) (and Plaintiff's Computerad (NY, NY Commodity Trading (Peter Cellar) UNION BANK, MAXWELL, SEC UCSD QUADMUR General Attorney, et al

(40) This is also a likely result if the

use "specific intent" (a/k/a "mens rea")

(universally) + (a/k/a "specific intent" (a/k/a "mens rea")).

(where ALDR - - - - E, RAE, RAYMAN

and EPR (USC-NY, NY)

(Universally) + (a/k/a "mens rea")

use "specific intent"

ALDR - - - - E

O.R. - - - - C.I.M. is supposed to

be a result of the same (universally).

Middle Name, "GHO" (A16-+ Otto O'Rourke)

+ Physics Otto LaFosse (Hartford, CT, B.C. 1960)

and University of Michigan Physics Dept. (Ottawa, Ontario)

Hartford University - - - - Rayman O'Reilly

and Rayman, 800m+e (D. R. O'Reilly)

(SAIC)

(FBI, 2010) (standard + actions, + all in order)

22 U.S.C. 2340, In re +, vs. Seal 2-3 Waddell

FBI:agent 094n + and 500- + 0 + 500 + 11:11:47

144 hours plus to add more to seal 144

1 (42) The California Defendants

2 (Brown, Sciaky, etc) have no constitutional
3 basis for going against the United States
(Sovereignty clause)

4 presidential policy. Nor Assistant
5 Fund such, use "Blackwater style"

6 "Police Tactics" etc on plaintiff. (2009)
7 (The last of such bring at the annual
8 Maxwell Shareholders Meeting on May 6, '10)
9 (The San Diego Police Dept. Monitoring (right in
10 back of) plaintiff. (Ronack was a founder of Maxwell)
11

12 (43) Especially to assist to "cover up"
13 Defendants and Maxwell's now admitted
14 violations of the U.S. Foreign Corrupt
15 Practices Act (Form 10-K, Sections 13 or
16 15(d) of the Securities Exchange Act of 1934.

17 (43) All connected to plaintiff's Enron Inc
18 claim (5-11+) with Deutsche Bank NY, NY.

19 (44) And the actions of U.C.SD (Christopher
20 Patti, Syl/Marye Fox (Chancellor)) in the "A.S"
21 Associated Students/Predator (Predator-ELF
22 disputes (General
23 AT-mics)

24 U.C.SD control
25 Christopher Patti, Syl/Marye Fox (Chancellor)
26 A.S
27 Predator-ELF
28 mind control)

(45) The Federal District Court itself
noted the Predator ("actually Predator-ELF
("Mine Control"))
disputed with Defendant U.C.-SD and
the other Defendants, in its May 26, 2010
Order.

(46) As part of its "WAR Booty", Defendant, carried off (Feb 9, 10 and thereafter) all The ELF/Predator-ELF Business, Records and letters to and from The University of California (now apparently claiming such may be "lost" or "we can't capable of being salvaged or whatever).

(47) And all the North Korean A-Bomb project records as well (especially relevant is President Obama's own citation that North Korea would be "further quickly overwhelmed" (emphasis added). That is using Predator-ELF ("putting trap" (temporarily or forever) anyone stupid enough to try to "push any button" (North Korean nukes)).

(48) These are all

22 VSC 3001

11

THIRD CAUSE OF ACTION
VIOLATIONS OF
SECTION 13 OR 15(d)
OF THE UNITED STATES SECURITIES
EXCHANGE ACT OF 1934

(49) Plaintiff incorporates by reference
all the facts and circumstances of
the First and Second Causes of Action
into this Third Cause of Action

(50) Essentially or "Simply put",
Defendants on Feb 9, 2010 (as "war booty")
"Took possession and control over
+1-50 years, worth of all Plaintiff's,
Plaintiff's Companies, Plaintiff's Legally
Personal Materials, Notes, recordings, Letters,
etc. Plaintiff being "wired out" by Defendants
(who have either threatened to destroy,
have destroyed such Federal Evidence
(FRCP 11) (as supposedly "unlawful?"

(51) Such includes all the "ROSTER
Records" (see USDC-SD - 93-1820 IEG
01-~~04~~ 04234
USBC 1011? (In re: Maxwell Technologies,

1 (52) It is alleged Plaintiff doing such,
2 Defendants deliberately wanted to
3 remove Federal Evidence in this SEC
4 Foreign Corrupt Practices Act Violation
5 of Maxwell (which affects RORACK
6 because RORACK (Raymond O'Rourke)
7 ALAN C. KOLB) (Kolb Maxwell's CEO &
8 and RORACK's Counsel KARL SIMONIAN
9 (Secretary + Counsel of Maxwell and
10 Yacht charter, Ltd (AL O'Rourke:
11 Company (see SDMC 025114 / USDC-SD
12 Lattice Electromagnetic Inc 96-cv-1442
13 (Predator ELF).
14

15 (53) In fact, bizarrely, Plaintiff might be
16 sued by Maxwell Shareholders (or others)
17 connected or complaining about this
18 FCPA violation (warned of for years,
19 decades) by Plaintiff (also involving SAIC)
20 General Atomics (Oyster —
21 The Late MARSANI Representing (Teller + friend),
22 (i.e. "victims",
23 Lawsuit.
24
25
26
27
28

1 (54) All these issues were told the
2 "well known" to defendant Jerry
3 Brown (whose Father Pat Brown,
4 Governor, got Raymond O'Rourke out
5 to California in the first place 1950's into
6 the 1960's (To work on Nuclear weapons
7 issues at U. C. Berkeley, UCSD, Scripps,
8 etc.) and of course when Jerry Brown
9 was himself Governor (1970's - 1980's)

10 (55) Defendant Brown had no legitimate
11 purpose whatsoever for Authorizing
12 or "green-lighting" the 2/9/10 RAID on
13 Plaintiff's home. And the "Total Seizure"
14 of the business records and other personal
15 properties.

16 (56) Nor, did Eric Holder. Or the U.S.
17 Secret Service (the TFF materials),
18 Ted Kennedy and other politicians, letters
19 (including several U.S. Presidents).

20 (57) Moreover these Maxwell, Enron, SAC,
21 ^{etc.}, Lattice Electromagnetic issues (Predator ELF,
22 Surveillance, Invasion of privacy etc.,
23 are only the "tip of the iceberg". (as in Watergate)

IV

1 FOURTH CAUSE OF ACTION
 2 INVASION OF PRIVACY
 3

4 (58) Plaintiff re-incorporates the
 5 facts and circumstances of the First,
 6 Second, and Third Causes of Action
 7 into this Fourth Cause of Action for
 8 Invasion of Privacy.
 9

10 (59) Defendants in the overriding
 11 (even after the Feb 9, 10 "Sneak Attack"
 12 constantly "monitor" or harass plaintiff
 13 as some kind of "frivolous" complainor
 14 for their money-making/financial irregular
 15 ^{vsD - the CAF} ~~complainor~~
 16 (Erroneous for example), ^{schemes})

17 (60) Indeed, some of their "Financial
 18 Schemes" (such as, the BANK (Qualcomm
 19 Bailout ^{Red China} ^{Irwindale} ^{Maxwell - Red}
 20 BANK Reform Act of 2009) ^{China} ^(Super-Gathering)
 21 "Cross-Sword," with plaintiff's
 22 supposed "normal rights"
 23 to be "left alone".
 24 Like at same MAY 6, 10
 25 Maxwell Shareholders
 26 Meeting.

27 20

1 (61) Such involve the "Negative Up"
2 of plaintiff's, re O'Rourke, Rorack,
3 Yacht Charters, Comptrol, etc own
4 Attorneys (Karl Samuelson, by Republican
5 National Financial Chairman - Parker,
6 Milliken, Clark, O'Han & Samuelson)
7 (Hale + Dorr - Boston - Paul Bryant)
8 Michael Dukakis
9 Plaintiff's own Accountants, Ernst + Young,
10 (see O'Rourke's Enron claim with
11 Deutsche Bank NY, NY USBC NXNY 01-
12 (603)-32-etc).
13 (62) What are supposed to be "Attorney-client
14 protected legal files, pleadings, wills, trusts,
15 business documents etc of the O'Rourkes/
16 Yachtcharters/
17 Rorack/Comptrol etc etc are now longer
18 with Plaintiff(s) as of 2/9/10 but with
19 Defendants (who refuse to return such,
20 and wish to destroy (or have destroyed) such
21 records.
22 (63) Defendants' conduct is an obvious
23 Invasion of Property.

121

V

1
2 FIFTH CAUSE OF ACTION
3
4 LEGAL TRESPASS

5 (64) Plaintiff re-incorporates and re-alleges
6 the facts and circumstances of the
7 First, Second, Third, Fourth Causes of Action
8 into this Fifth Cause of Action for
9
10 TRESPASS.

11 (65) As noted by the Federal Court itself
12 on May 22, '10, The 7949 Long Terrace
13 home is the legal residence (TAX, census,
14 homeowner duties) of Al O'Rourke (and his
15 numerous friends, invitees etc).

16 (66) Defendants had no lawful right to
17 come onto the premises on Feb 9, '10
18 or elect (and still maintain) the
19 "King Kong" Fence (National Fence Co.)

20 (67) The Federal Court has not authorized
21 such defendant actions in any manner

1 (68) Nor post a supposed stand-
2 court Marshall's notice that
3

4 Raymond O'Rourke (deceased) is "suing
5 himself"
6 and Albert O'Rourke (his son, legal counsel,
7 business partner etc.)
8

9 Yet such is the supposed "legal
10 basis" (Raymond O'Rourke, plaintiff
11 v. Raymond O'Rourke, Albert O'Rourke
12 Defendant).
13

14 Such clearly is a "Legal impossibility"
15 and violates FRCP 11 ("Rule 11").
16

17 (70) And, Invades, Al O'Rourke's
18 right of privacy from Invasion
19 (Being "Fenced out" of "All That Remains,"
20 # 7949 Long Terrace).

21 (70) And any personal property or
22 business records, letters, clothes, tools,
23 personal effects, that still remain
24 (some of such are clearly visible
25 behind the "King Kong" fence).

26 (71) Hence, Plaintiff has a legal cause of
27 action for Invasion of privacy.
28

VI

SIXTH CAUSE OF ACTION
INVASION OF SLANDER OF
RIGHTS OF TITLE

(72) Plaintiff re-incorporates, re-alleges, the facts and circumstances of the First, Second, Third, Fourth, Fifth Causes of Action in this SIXTH CAUSE OF ACTION for Slander of Title specifically and more generally Invasion of Title (meaning Defendants have used old title documents, of #949 Long Terrace LA Tollz, CA, which belong to the O'Rourke, RORAK and Plaintiff).

(73) Again, as noted by the Federal District Court (and the U.S. Tax Court in 89-13052), Albert O'Rourke was the co-owner - of #949 Long Terrace, LA Tollz, CA (paying for such out - of the "third party" joint Raymond Mary, Albert Stock, Brad, Bank Accounts, Trust Accounts, (O'Rourke Residencies)) 124

(State of California)

County of San Diego

(74) Even the County of San Diego
Property Tax Division (Postponement
of property taxes) lists Albert, Rorack
Raymond, Mary as liable for the
Property Taxes.

(75) AL O'Rourke went down in person
or by mail every year for Decades,
to pay or postpone such. AL O'Rourke
and Rorack are the "responsible parties,"
(A) is Rorack)

(76) Defendants know such (but were
simply "Fed up" with dealing with
AL O'Rourke (Admitted by B George Seitzley
and the other defendants in p 193 of 6)

(SDSC 37-0046762, SDSC 566159, SDSC 615878
V.S. Tax Court
89-13-52 SDMC 025114
(US 98-CV
-1442) 52

(77) Hence, as stated previously,
they seized such title documentation
(to AL O'Rourke / Rorack / O'Rourke Residential/
Carl Home) to "cover up" such from this
Federal District Court

~~VII~~

1 SEVENTH CAUSE OF ACTION
2 FOR DECLARATORY RELIEF
3

4 (78) Plaintiff re-incorporates and re-alleges
5 the facts and circumstances of the first
6 six causes of action in this Seventh
7 cause of action for Declaratory Relief.
8

9 (79) Plaintiff specifically requests
10 that the Federal Court ("Following up"
11 on its own May 26, '10 Ruling)
12 declare that either
13

14 (a) Albert O'Rourke owns the property
15

16 (b) Rorack owns the property
17

18 (c) such is jointly owned by
19

20 Albert, William, Cathy O'Rourke/Warren
21 O'Rourke

22 (d) ANY legal disputes about Jurisdiction
23

24 (if Title is made to Rorack)
25 should be heard in Maryland (because
26 of the Rorack Partnership Agreement
27 to such effect) ("simply put" ^{Determinant} California
28 is "Seeking Advantage" over Maryland
29 (by the 2/9/10 RAID))

EIGHTH CAUSE OF ACTION
INJUNCTIVE RELIEF

AS his Eighth Cause of Action
(80) Plaintiff also requests that
since he has no "adequate remedy"
AT LAW

TO STOP Defendant's continuing and
PAST Actions AGAINST him (the "King
Kong" "France", the "surveillance" etc,
That the Federal Court stop such
by INJUNCTIVE RELIEF.

PRAYER FOR RELIEF

Wherefore, Plaintiff requests the
Federal District Court

- ① Damages of One Trillion Dollars
- ② Title to 7949 Long Terrace
La Jolla, California (Declaratory Relief)
- ③ INJUNCTIVE RELIEF
- ④ Other Relief as the Federal Court
MAY SEEK TO GRANT

Respectfully submitted

John
ALBERT (AL) O'Rourke

Dated June 9, 2010

DECLARATION

I, ALBERT (AL) O'Rourke
declare the foregoing to be
true and correct to the best of
my knowledge and belief
under penalty of perjury of the
laws of the United States.

This June 9, 2010 at La Jolla,
California

John
Albert (AL) O'Rourke

**IN THE UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

	----- X -----
In re	:
CITY OF DETROIT, MICHIGAN,	:
Debtor	:
	Case No. 13-53846
	Hon. Steven W. Rhodes

**DEBTOR'S REPLY TO RESPONSE TO OBJECTION TO CLAIM NUMBER 458
FILED BY ALBERT O'ROURKE**

The Debtor, the City of Detroit (the “City”), by and through its undersigned counsel, for its reply (the “Reply”) Albert O’Rourke’s response (the “Response”) to the City’s objection (the “Objection”) to claim number 458 (the “Claim”), respectfully states as follows:

INTRODUCTION

Mr. O’Rourke filed the Claim asserting that the City owes him one trillion dollars (\$1,000,000,000,000) because it had lost or destroyed certain research materials related to nuclear weapons. Mr. O’Rourke did not provide any proof of his ownership of the materials, or evidence supporting his trillion dollar claim against the City in the Claim. The Response states that the one trillion dollar amount is the amount that it would cost to build the various nuclear weapons and devices Mr. O’Rourke claims could be built with the materials. While the Response does not explain how Mr. O’Rourke came to the conclusion that it would cost one trillion to construct a nuclear weapon, it is irrelevant because he does not explain why the City owes any assuming relating to the construction of a nuclear weapon. Furthermore, Mr. O’Rourke states in the Response that the materials may still be located in Detroit. If that is the



case, the City has no liability for lost or destroyed materials. Finally, though Mr. O'Rourke states that his ownership of the materials at issue is “undisputed by City of Detroit”, this is false for several fundamental reasons. Based on the information in the Claim and the Response, the City cannot even determine what the materials are, whether they exist, where they are located, and if they exist, who owns them. Mr. O'Rourke has not provided any support for the Claim and therefore it should be disallowed and expunged.

BACKGROUND

1. On February 21, 2014, Mr. O'Rourke filed the Claim, asserting that the City owed him one trillion dollars (\$1,000,000,000,000) because the City had lost or destroyed certain nuclear research materials located at a home in Detroit.

2. On May 15, 2014, the City filed the Objection, asserting that the Claim, as filed, did not meet the requirements of Fed. R. Bankr. P. 3001 [Dkt. No. 4872]. Among other things, the City argued that Mr. O'Rourke provided no evidence to support his ownership of the alleged nuclear materials which he claims were lost or stolen, and that he provided no evidence to support the Claim's trillion dollar value.

3. On or about June 3, 2014, Mr. O'Rourke filed the Response. In the Response, he explains that the one trillion dollar value of the Claim is the amount it would cost to build a nuclear weapon using the materials at issue. Response, p. 3. The Response does not explain why Mr. O'Rourke is entitled to that amount of money from the City.

4. The Response also states that the materials may still be located in a Detroit home (the “Home”) and/or at the University of Michigan.

5. The Response does not establish Mr. O'Rourke's ownership of the materials.

ARGUMENT

6. The Claim should be disallowed and expunged because it is frivolous and its

filings constitutes an abuse of the bankruptcy process. Mr. O'Rourke provides no evidence to support his assertion that the City owes him one trillion dollars based on the possible loss or destruction of certain nuclear research materials.

7. First, in the Response, Mr. O'Rourke states that the nuclear research materials, whatever they may be, may still be located in the Home. Response, p. 2. He also states they may be located the University of Michigan. *Id.* If that is the case, then the City neither lost nor destroyed the materials.

8. Second, even if the materials are no longer located where Mr. O'Rourke believes they may be, the City still is not liable to him for one trillion dollars. Mr. O'Rourke has not demonstrated that they exist or that he owns the materials. His assertion that the City does not contest his ownership is incorrect. Response, p. 1. The City has no information about the existence of the materials, let alone any information about their ownership. Mr. O'Rourke has not provided that information with Claim or the Response.

9. Finally, Mr. O'Rourke explains in the Response that the trillion dollar valuation of the Claim is based on the cost of building a nuclear weapon using the materials at issue. He does not support that value with any evidence. More importantly, even if that number is correct, Mr. O'Rourke has not provided any evidence as to why the City is liable to him personally for one trillion dollars for the cost of constructing a nuclear weapon.

10. As more fully explained in the Objection, the Claim does not meet the requirements of Fed. R. Bankr. P. 3001, and should be disallowed. Mr. O'Rourke has not established any basis upon which the City is liable to him, let alone liable to him for one trillion dollars.

WHEREFORE, the City respectfully requests that this Court enter an order disallowing and expunging the Claim, and granting the City such other and further relief as this Court may deem just and proper.

Dated: June 20, 2014

FOLEY & LARDNER LLP

By: /s/ Tamar N. Dolcourt
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UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

IN RE: CITY OF DETROIT, . Docket No. 13-53846
MICHIGAN, .
. Detroit, Michigan
. June 25, 2014
Debtor. . 10:00 a.m.
.

HEARING RE. (#4792) OBJECTION TO CLAIM NUMBER OF CLAIMANT FIRST OMNIBUS OBJECTION TO CLAIMS (DUPLICATE CLAIMS) FILED BY DEBTOR IN POSSESSION CITY OF DETROIT, MICHIGAN; (#4794) OBJECTION TO CLAIM NUMBER OF CLAIMANT SECOND OMNIBUS OBJECTION TO CLAIMS (AMENDED AND SUPERSEDED) FILED BY DEBTOR IN POSSESSION CITY OF DETROIT, MICHIGAN; (#4834) OBJECTION TO CLAIM NUMBER OF CLAIMANT EDITH WOODBERRY CLAIM NO. 2846. FILED BY DEBTOR IN POSSESSION CITY OF DETROIT, MICHIGAN; (#4835) OBJECTION TO CLAIM NUMBER OF CLAIMANT CLAIM NO. 3278 BY PHEBE WOODBERRY. FILED BY DEBTOR IN POSSESSION CITY OF DETROIT, MICHIGAN; (#4836) OBJECTION TO CLAIM NUMBER OF CLAIMANT CLAIM NO. 3883 BY LA JEFF WOODBERRY. FILED BY DEBTOR IN POSSESSION CITY OF DETROIT, MICHIGAN; (#4837) OBJECTION TO CLAIM NUMBER OF CLAIMANT CLAIM NO. 2889 BY LAVAN WOODBERRY. FILED BY DEBTOR IN POSSESSION CITY OF DETROIT, MICHIGAN; (#4838) OBJECTION TO CLAIM NUMBER OF CLAIMANT CLAIM NO. 2880 BY HAPPY WOODBERRY. FILED BY DEBTOR IN POSSESSION CITY OF DETROIT, MICHIGAN; (#4839) OBJECTION TO CLAIM NUMBER OF CLAIMANT CLAIM NO. 2905 BY CRANSTON WOODBERRY. FILED BY DEBTOR IN POSSESSION CITY OF DETROIT, MICHIGAN; (#4840) OBJECTION TO CLAIM NUMBER OF CLAIMANT CLAIM NO. 3006 BY GARFIELD WOODBERRY. FILED BY DEBTOR IN POSSESSION CITY OF DETROIT, MICHIGAN; (#4841) OBJECTION TO CLAIM NUMBER OF CLAIMANT CLAIM NO. 2888 BY CAVEL WOODBERRY. FILED BY DEBTOR IN POSSESSION CITY OF DETROIT, MICHIGAN; (#4842) OBJECTION TO CLAIM NUMBER OF CLAIMANT DR. BRIAN GREENE, AS NEXT FRIEND OF INDIA BOND, A MINOR/ OBJECTION OF THE CITY OF DETROIT, PURSUANT TO SECTIONS 105 AND 502(b) OF THE BANKRUPTCY CODE, BANKRUPTCY RULE 3007 AND LOCAL RULE 3007-1, TO PROOF OF CLAIM NUMBER 1399 FILED BY DR. BRIAN GREENE, AS NEXT FRIEND OF INDIA BOND, A MINOR, FILED BY DEBTOR IN POSSESSION, CITY OF DETROIT, MICHIGAN; (#4843) OBJECTION TO CLAIM NUMBER OF CLAIMANT CLAIM NO. 3271 BY ADAM WOODBERRY. FILED BY DEBTOR IN POSSESSION, CITY OF DETROIT, MICHIGAN; (#4844) OBJECTION TO CLAIM NUMBER OF CLAIMANT TARIS JACKSON, AS NEXT FRIEND OF ASHLY JACKSON, A MINOR/ OBJECTION OF THE CITY OF DETROIT, PURSUANT TO SECTIONS 105 AND 502(b) OF THE BANKRUPTCY CODE, BANKRUPTCY RULE

3007 AND LOCAL RULE 3007-1, TO PROOF OF CLAIM NUMBER 1401 FILED BY TARIS JACKSON, AS NEXT FRIEND OF ASHLY JACKSON, A MINOR, FILED BY DEBTOR IN POSSESSION, CITY OF DETROIT, MICHIGAN; (#4854) OBJECTION TO CLAIM NUMBER OF CLAIMANT ERNEST FLAGG, AS NEXT FRIEND OF JONATHON BOND, A MINOR/OBJECTION OF THE CITY OF DETROIT, PURSUANT TO SECTIONS 105 AND 502(b) OF THE BANKRUPTCY CODE, BANKRUPTCY RULE 3007 AND LOCAL RULE 3007-1, TO PROOF OF CLAIM NUMBER 1404 FILED BY ERNEST FLAGG, AS NEXT FRIEND OF JONATHON BOND, A MINOR, FILED BY DEBTOR IN POSSESSION, CITY OF DETROIT, MICHIGAN; (#4855) OBJECTION TO CLAIM NUMBER OF CLAIMANT CLAIM NO. 3236 BY LUCINDA DARRAH. FILED BY DEBTOR IN POSSESSION CITY OF DETROIT, MICHIGAN; (#4857) OBJECTION TO CLAIM NUMBER OF CLAIMANT CLAIM NOS. 1330 AND 1853 FILED BY RICKIE ALLEN HOLT ON BEHALF OF THE ABORIGINAL INDIGENOUS PEOPLE. FILED BY DEBTOR IN POSSESSION CITY OF DETROIT, MICHIGAN; (#4859) OBJECTION TO CLAIM NUMBER OF CLAIMANT CLAIM NO. 2902 ON BEHALF OF PENNY MABIN. FILED BY DEBTOR IN POSSESSION CITY OF DETROIT, MICHIGAN; (#4863) OBJECTION TO CLAIM NUMBER OF CLAIMANT CLAIM NO. 2021 BY EDWARD L. GILDYARD. FILED BY DEBTOR IN POSSESSION CITY OF DETROIT, MICHIGAN; (#4872) OBJECTION TO CLAIM NUMBER OF CLAIMANT CLAIM NO. 458 BY ALBERT OTTO O'ROURKE. FILED BY DEBTOR IN POSSESSION CITY OF DETROIT, MICHIGAN; (#4873) OBJECTION TO CLAIM NUMBER OF CLAIMANT CLAIM NOS. 1329 AND 1859 BY RICKIE HOLT FILED BY DEBTOR IN POSSESSION CITY OF DETROIT, MICHIGAN; (#4881) OBJECTION TO CLAIM NUMBER OF CLAIMANT/FOURTH OMNIBUS OBJECTION TO THE CITY OF DETROIT, PURSUANT TO SECTIONS 105 AND 502(b) OF THE BANKRUPTCY CODE, BANKRUPTCY RULE 3007 AND LOCAL RULE 3007-1, SEEKING THE DISALLOWANCE OF CERTAIN DUPLICATE CLAIMS FILED BY DEBTOR IN POSSESSION CITY OF DETROIT, MICHIGAN; (#4886) OBJECTION TO CLAIM NUMBER OF CLAIMANT HYDE PARK CO-OPERATIVE/OBJECTION OF THE CITY OF DETROIT, PURSUANT TO SECTIONS 105 AND 502(b) OF THE BANKRUPTCY CODE, BANKRUPTCY RULE 3007 AND LOCAL RULE 3007-1, TO PROOF OF CLAIM NUMBER 2651 FILED BY HYDE PARK CO-OPERATIVE FILED BY DEBTOR IN POSSESSION CITY OF DETROIT, MICHIGAN; (#4954) OBJECTION TO CLAIM NUMBER OF CLAIMANT CLAIM NUMBER 3683 FILED BY MACOMB. (CORRECTED OBJECTION RE. DOCKET 4880) FILED BY DEBTOR IN POSSESSION CITY OF DETROIT, MICHIGAN; (#4955) OBJECTION TO CLAIM NUMBER OF CLAIMANT CORRECTED OBJECTION TO CLAIM NUMBERS 1302 AND 3500 FILED BY INLAND WATERS POLLUTION CONTROL, INC. (RE. DOCKET 4875) FILED BY DEBTOR IN POSSESSION, CITY OF DETROIT, MICHIGAN; STATUS HEARING RE. (#5155) MOTION TO ALLOW CLAIM(S)/NOTICE OF AND MOTION FOR TEMPORARY ALLOWANCE OF CLAIM OF THE MACOMB INTERCEPTOR DRAIN DRAINAGE DISTRICT PURSUANT TO RULE 3018(a) OF THE FEDERAL RULES OF BANKRUPTCY PROCEDURE FOR PURPOSES OF ACCEPTING OR REJECTING THE DEBTOR'S FOURTH AMENDED PLAN OF ADJUSTMENT FILED BY CREDITOR

COUNTY OF MACOMB, MICHIGAN; (STATUS HEARING RE. (#5354)
MOTION FOR CLASS CERTIFICATION OF PROOF OF CLAIMS
#2638, 2651, 2654, 2659, 2676, 2683, 2689 AND 2692 FILED BY
CREDITOR HYDE PARK CO-OPERATIVE, ET AL.
BEFORE THE HONORABLE STEVEN W. RHODES
UNITED STATES BANKRUPTCY COURT JUDGE

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1 THE CLERK: Case Number 13-53846, City of Detroit,
2 Michigan.

3 MR. ELLMAN: Your Honor, Jeffrey Ellman from Jones
4 Day on behalf of the city. Are we going to take appearances
5 now for everyone?

6 THE COURT: Sure.

7 MR. SIMON: Good morning, your Honor. John Simon of
8 Foley & Lardner for the city.

9 MS. DOLCOURT: Good morning, your Honor. Tamar
10 Dolcourt of Foley & Lardner on behalf of the city.

11 MR. MONTGOMERY: Good morning, your Honor. Claude
12 Montgomery, Dentons US, LLP, for the Official Retiree
13 Committee.

14 MR. BRILLIANT: Good morning, your Honor. Allan
15 Brilliant and Raechel Badalamenti from Kirk, Huth, Lange &
16 Badalamenti on behalf of the Macomb Interceptor Drain
17 Drainage District.

18 THE COURT: Thank you, sir.

19 MR. FUSCO: Good morning, your Honor. Timothy
20 Fusco, Miller Canfield, on behalf of the city.

21 MR. LEDERMAN: Good morning, your Honor. Howard
22 Lederman on behalf of three claimants, Ernest Flagg, Dr.
23 Brian Greene, and Taris Jackson.

24 THE COURT: Thank you, sir. Mr. Ellman.

25 MR. ELLMAN: Yes, your Honor. Good morning and

1 thanks for hearing us today. We have on the docket this
2 morning a number of claim objections filed by the city. Your
3 Honor has entered orders on a number of them as of yesterday
4 for the matters where there was no response, and there's
5 still a handful of matters to address. I'm happy to deal
6 with them in a particular order if your Honor has something
7 you would like to do. Otherwise we have folks from --

8 THE COURT: No. I will yield the agenda to you,
9 sir.

10 MR. ELLMAN: Okay. Great. Thank you, your Honor.
11 Well, the first thing I guess I will address is two different
12 objections that go together. It's an objection to Claim
13 Number 2651 by Hyde Park Co-Operative, and that's Docket
14 4886. And then there was a related objection, which was the
15 fourth omnibus objection to certain claims, duplicate claims.
16 That's Docket 4881, and that dealt with another seven claims
17 filed by related entities, related in the sense that all the
18 claims are based on an underlying lawsuit for which a class
19 is alleged, a putative class relating to alleged overcharging
20 for building inspection fees. I'm sure the Court has looked
21 at the papers. We've talked to counsel just before the
22 hearing, and I think we have a consensus on the best way to
23 address this. We have effectively eight claims, and I don't
24 think there's any real dispute that they are duplicative in
25 the sense that they're based on the same lawsuit. They're

1 all filed for \$5 million. They all allege an individual
2 claim, but really they also allege a class claim. And we
3 believe that seven of those claims should be disallowed. I
4 do not think that's being opposed today. We also have the
5 final claim, which is the Hyde Park claim, which we objected
6 to as not having been properly authorized to be filed in this
7 Court as a class claim in advance of its filing under the
8 rules, and since we filed the objection, the Hyde Park
9 parties have filed, in fact, a motion for class
10 certification, which is not pending -- not being heard today.
11 It is on the docket. Responses, I think, are due next week.
12 So what we had proposed is to put off that claim objection
13 until the Court can determine that motion because it seems
14 inefficient just to have the Court disallow the claim. If
15 you were inclined to grant certification, they'd have to
16 refile it. It doesn't seem very efficient. We also had said
17 in our papers, which we think is appropriate, if class
18 certification is denied, that the individual claimants who
19 have their duplicate claims disallowed as an improper
20 duplicate class claim should have the right to file
21 individual claims. They did file a timely claim even though
22 it was -- they included their individual claim if they have
23 one with their class claim, so they're clearly duplicative of
24 the class claim, but if a class is denied certification, it
25 seems appropriate to give them some period of time -- we

1 suggested 30 days -- to let them refile an individual claim,
2 but that is a future matter that can be addressed in
3 conjunction with the certification motion. My understanding
4 is counsel for the Hyde Park entities has agreed with that,
5 and we would ask the Court to --

6 THE COURT: Okay.

7 MR. ELLMAN: -- grant that relief.

8 MR. FUSCO: Your Honor, just for the record, Miller
9 Canfield is defending the class certification motion. Our
10 response is due next week, and we do intend to oppose the
11 motion for class certification.

12 THE COURT: All right. Thank you, sir.

13 MR. THORNBLADH: Your Honor, Kurt Thornbladh on
14 behalf of Hyde Park. Good to see you again, Judge Rhodes.
15 With me is Carl Becker, who's also co-counsel with me on
16 these matters. And this correctly states our agreement of
17 this morning.

18 THE COURT: All right. Let me ask you to actually
19 prepare a paper which memorializes your agreement and file
20 that, please. I'd like to actually go ahead and set a date
21 for the hearing on the class certification motion. Is that
22 okay?

23 MR. THORNBLADH: That would be fine, your Honor,
24 thank you, if that's fine with my colleagues.

25 THE COURT: Chris, what would you propose? Give us

1 one second, please. Subject to finding a courtroom we can
2 use, how about July 21st at 10 a.m.?

3 MR. THORNBALDH: That's acceptable, your Honor.

4 THE COURT: Mr. Fusco.

5 MR. FUSCO: I believe that's fine, your Honor.

6 THE COURT: All right. I doubt that got on the
7 microphone, but we'll note for the record that Mr. Fusco
8 asserted that he thought that that was fine. Okay. So if
9 there are problems with that date, let us know, and we'll
10 adjust it, but in the meantime, let's count on that date.

11 MR. FUSCO: And just for the record, we're going to
12 maintain the same response time, so next --

13 THE COURT: Yes.

14 MR. FUSCO: -- week we'll file our papers.

15 THE COURT: Yes.

16 MR. FUSCO: All right. Thank you, your Honor.

17 MR. ELLMAN: Thank you, your Honor. The next three
18 items that I would address, again, are related items,
19 objections to claims by Dr. Brian Greene, Taris Jackson, and
20 Ernest Flagg, and those are Docket Numbers 4842, 4844, and
21 4854. These are all matters that they all seek about \$155
22 million as damage claim alleging denial of and conspiracy to
23 deny access to courts in connection with homicide of Tamara
24 Greene. These matters had been adjudicated. There was an
25 order of dismissal issued by Judge Rosen. There was also an

1 order from the Sixth Circuit affirming that dismissal and
2 then a motion to deny a rehearing at the Sixth Circuit on
3 June 18th, 2013, so we filed this objection, your Honor, in
4 light of the fact that this claim had been adjudicated and
5 denied, and, therefore, the bankruptcy claim should be
6 disallowed. It was pointed out to us in the response that,
7 in fact, as a result of the bankruptcy filing tolling the
8 statutory deadlines, that a cert petition could still be
9 filed and that the plaintiffs intended to do so, so you might
10 recall, your Honor, under our ADR procedures we have the
11 right -- the city has the right to file a stay modification
12 notice for these types of claims and lift the stay, which we
13 have -- in response to the papers filed, we did do that last
14 week, so the stay has been lifted to allow, if they're so
15 inclined, the plaintiffs to file their cert petition, and we
16 suggested that this matter be put off until October 1st at
17 our next claims hearing to have a status on where that cert
18 petition stands, has it been filed, has it been dealt with in
19 any way. Counsel here for the plaintiffs indicates that
20 that's acceptable to them, and we believe that would be
21 appropriate.

22 THE COURT: Sir.

23 MR. LEDERMAN: Yes. Your Honor, the facts are as
24 counsel indicated them. I will say that our clients have
25 given us the go-ahead to petition for cert. And when we

1 heard of the bankruptcy on or about July 18th of last year,
2 we were working on the petition for cert, so right now our
3 intention is to go ahead and petition for cert.

4 THE COURT: Okay. The Court will adjourn this
5 matter until October 1st.

6 MR. LEDERMAN: October 1st? Thank you, your Honor.

7 THE COURT: You're welcome.

8 MR. ELLMAN: And, your Honor, the last matter that I
9 am going to be handling today is the third omnibus objection
10 to employee claims duplicative of certain union claims, and
11 this is a matter -- I think it covered about 50 claims, and
12 your Honor has entered an order on all but one of the claims
13 where there was no response. We did have a response from
14 Antonio Ratliff. His response is very brief. It basically
15 says that he filed one claim that was a public claim or one
16 of the claims at issue is a public claim, maybe the union
17 claim, and one was a private or personal claim. I'm not sure
18 there's a legal distinction there. Our view is that the
19 types of -- excuse me -- the types of matters raised in Mr.
20 Ratliff's claim are all covered by the very broad claim of
21 AFSCME. Mr. Ratliff is an AFSCME member, based on the city's
22 books and records, and the AFSCME claim, which is Claim 2958,
23 is a very broad claim covering all of its members and
24 including virtually every type of breach of contract or
25 violation of law type of claim. We have separately objected

1 to that claim. We've also adjourned that objection. And, in
2 addition, we've separately worked out with AFSCME a voting
3 amount for their claim, which your Honor signed also this
4 week, so that claim will vote, and they will have a vote on
5 behalf of their members, but we believe that Mr. Ratliff's
6 claim on its face is duplicative of the claim filed on his
7 behalf by the union and should be disallowed.

8 THE COURT: Thank you. Is Mr. Ratliff here or
9 anyone representing him? All right. The Court concludes
10 that the record justifies sustaining the city's objection to
11 this claim on the grounds that it is duplicative, so you may
12 submit an order.

13 MR. ELLMAN: We will do that, your Honor. Thank
14 you. And the lawyers from Foley will handle the remaining
15 matters.

16 THE COURT: All right.

17 MR. SIMON: Good morning, your Honor. John Simon of
18 Foley & Lardner for the city. We have four objections to
19 claims, your Honor, that were not resolved. We filed a
20 variety of objections that we either resolved or which were
21 resolved by the Court's orders entered yesterday or this
22 morning. Those four remaining objections -- and I guess
23 there's actually more than four claims, but there are four
24 buckets of objections. There's Claim 458 as to Mr. Albert
25 O'Rourke, Claim 3236 filed by Ms. Lucinda Darrah, and then

1 there are a variety of claim numbers, ten claims filed by
2 what we call the Woodberry claimants on account of a
3 condemnation proceeding or an eminent domain proceeding. And
4 then there is the Macomb Interceptor claim and the related
5 3018 motion that was filed by Macomb Interceptor. If I could
6 address them in that order, O'Rourke --

7 THE COURT: Sure.

8 MR. SIMON: -- Darrah -- thank you. Your Honor,
9 with respect to Mr. O'Rourke's claim, we objected to the
10 claim. The claim lists unspecified governmental abuses in
11 quotation marks on the initial claim. We filed the
12 objection. It appears -- and I know you've read the
13 documents. It appears that the claim is based on the city
14 allegedly destroying some kind of nuclear secrets. There's
15 really no valid basis for the claim that we can identify from
16 the documents. There are rambling handwritten response to
17 our claim objection that was filed in support, and it calls
18 in a District Court litigation from California with rambling
19 text that talks about everything from, you know, the JFK
20 documents to some kind of nuclear documents and basically
21 says the city is somehow responsible for the cost of one
22 trillion dollars, which would be the cost of constructing
23 nuclear weapons based on the nuclear secrets. It's a
24 frivolous claim, your Honor. It doesn't meet the standards
25 of 3001(f). We do not know of any basis for this claim at

1 the city, and so we would request that it is expunged.

2 I should point out we did receive a handwritten
3 letter from Mr. O'Rourke yesterday in which he let us know
4 that he cannot attend the hearing personally, but he is --
5 hopefully we are amenable to simply let your Honor make a
6 ruling. We are happy to have you make a ruling. There's no
7 valid basis for the claim, and it should be disallowed.

8 THE COURT: Is Mr. O'Rourke here or anyone on his
9 behalf? No response. The Court concludes that the record
10 does justify sustaining the city's objection to the claim,
11 and you may submit an order.

12 MR. SIMON: Thank you. Your Honor, moving on to
13 Claim Number 3236 filed by Ms. Lucinda Darrah, this claim --
14 in this claim the claimant alleged she was owed \$150 million
15 to purchase garbage trucks so that the citizens of Detroit
16 could manage their own garbage services. There were no
17 attachments to the proof of claim. There's no basis
18 presented or documents provided or any kind of evidence that
19 connects why the city would be liable to pay Ms. Darrah for
20 the \$150 million to purchase garbage trucks. In response to
21 our claim objection, Ms. Darrah filed another document in
22 response that specified and requested an additional \$450
23 million for unspecified damages alleged to arise from her
24 vicinity to an incinerator. There's no basis for either of
25 the claims, the initial claim. There's no basis provided.

1 There was no response to our objection on that point. And
2 her further reply basically submits a new claim, which is
3 also baseless, and so we would ask the Court to deny those
4 claims and disallow them.

5 THE COURT: Thank you. Is Ms. Darrah here or anyone
6 representing her? We do have a response. Will you yield the
7 lectern, please?

8 MS. DARRAH: Your Honor, I first filed for control
9 of the garbage because I felt like our health wasn't being
10 protected, mine and everybody else's, and so I thought if we
11 controlled the garbage and the recycling and reuse, then
12 plastics wouldn't go to the landfill -- would go to the
13 landfill that weren't recycled and not be put in the
14 incinerator. And I have a book that I'd be glad to give the
15 Court. It's Waste Incineration and Public Health published
16 by the National Research Council in 2000. This is what --
17 these are all scientists that are really -- these are the
18 best scientists we have in the country, and they put this
19 book out in 2000 talking about the polyvinyl chloride breaks
20 down when you incinerate it. When it cools off, it creates
21 dioxins and furans, which are the most poisonous carcinogens
22 I think that we have in the waste stream, even more so than
23 lead and mercury. So they've been burning this. In fact, in
24 2010 I think the city signed another contract guaranteeing
25 that they would burn a certain amount of trash, so that

1 contract should be broken under the bankruptcy if you can
2 have Kevyn Orr go in there and break that contract because
3 that's the way they forced us to keep burning our garbage.
4 As long as we have that kind of incinerator running, then
5 they won't recycle in a true meaningful way, and we'll
6 continue to have dioxins in our air, food, water, land. And
7 this book, particularly in the last pages, where they've
8 done -- if they don't run an incinerator just right in the
9 optimal steady state condition like in start-up and shutdown
10 and also if they have a bad burn cycle, it just multiplies
11 exponentially how many dioxins and furans are put into the
12 air. And this is right by the medical center. It was a
13 mistake that this was ever put in there. I protested with
14 Greenpeace. Actually, I was on that site as an electrician
15 apprentice only for five days. They laid me off after I
16 started trying to get people to come to the demonstrations
17 after work, but they -- this has been a -- when I went back
18 out there the second time as an electrician, I was -- I
19 turned out by then -- they were putting scrubbers on, but
20 scrubbers don't take dioxin and furans out. The only way to
21 take them out, according to Saulius Simoliunas, is to cool
22 the gases after they come out and try and trap them in a
23 screen, and then you got to take that screen to a toxic
24 landfill. The screen will catch the dioxin and furans. When
25 you recycle, you melt it. This is what he's telling me, and

1 it doesn't go down to -- when it melts, it doesn't release
2 the chlorines which cause the -- you know, the furans and the
3 dioxins to form, and they don't break down. I don't think
4 that you get them out of your body, and, in fact, years ago
5 Greenpeace had a teach-in, and they said that these would
6 simulate the sex hormones and that they saw an increase in
7 breast cancer and in prostate cancer, but what I saw as a
8 swim leader and lifeguard, these young girls at age ten were
9 developing big breasts much earlier than I thought was normal
10 for puberty, so -- and we see a lot of people overweight now,
11 and maybe that's one of the reasons because it does --
12 according to this book, it gets in the food, and that's one
13 of the main ways that people get affected by it.

14 THE COURT: Ma'am, I have two questions.

15 MS. DARAH: So I thought --

16 THE COURT: I have two questions.

17 MS. DARAH: -- my health is worth and everybody's
18 health is worth -- you can't measure it. My mother was the
19 daughter of a doctor, and she used to teach us that health is
20 our most important wealth, and there's --

21 THE COURT: Ma'am --

22 MS. DARAH: If you don't have your health --

23 THE COURT: Ma'am --

24 MS. DARAH: -- it doesn't matter how much wealth
25 you got. You won't be happy. Sorry.

1 THE COURT: I have to ask you two questions. Okay?

2 MS. DARRAH: Okay. Yeah.

3 THE COURT: The city argues that you filed this
4 claim regarding the incinerator too late, after the
5 deadline --

6 MS. DARRAH: Yeah.

7 THE COURT: -- set by the Court.

8 MS. DARRAH: Well, I think they're related, you
9 know. In other words, the reason I started out with the
10 recycling and the garbage control is that if the residents in
11 the district -- we have seven districts now. If they were in
12 control of the project, they would try harder to get the
13 plastic out of the waste stream, but when I saw that that --
14 that wasn't really something that is illegal to make them
15 recycle, but what is illegal is for them to violate the Clean
16 Air Act and jeopardize my health and everybody else's health,
17 so that's why I amended it to include that because I
18 didn't -- and, by the way, I spent yesterday running around
19 to the Hamtramck recycle. I already talked to the director,
20 Brundidge. I went to the Southfield yard where Advanced
21 Disposal is, and I didn't make it out to Sterling Heights.
22 That's where Rizzo takes their trucks every day. That's
23 their headquarters, but -- and the old recycle place burnt
24 down. The thing that bothered me is Anna Holden sent me a
25 flier that she got off their web -- both of the websites,

1 Rizzo and Advanced Disposal, and I meant to bring it. I can
2 run home and bring it down to you as soon as I finish here
3 and give it to you. I meant -- it was -- and I didn't see it
4 this time. I don't know how -- but she got it off the main
5 websites, both of them. It says no plastic shopping bags in
6 the recycle bucket that we're supposed to pay for, so to me
7 that means they really aren't in it to try and get all the
8 plastic out to protect our health. They're in it just
9 because they wanted the contract with the City of Detroit,
10 and this looks good that we've got this recycling that if
11 they don't educate people, people won't even use it anyway,
12 you know, because they have to pay \$25 for it, and they don't
13 know about the bad effects of plastic in the waste stream.

14 THE COURT: Let me ask you my second question.

15 MS. DARRAH: Okay. Yeah.

16 THE COURT: You claim \$450 million for compensation
17 for the harm you have suffered.

18 MS. DARRAH: Right.

19 THE COURT: What evidence do you have of that?

20 MS. DARRAH: Well, I was trying to put a value on my
21 life, and they did spend about that much when they first
22 built the incinerator, and then they -- I don't know how much
23 more they spent when they were forced to put scrubbers on it.
24 They didn't even put those on till they were forced to, but
25 those scrubbers won't take dioxins out.

1 THE COURT: All right.

2 MS. DARRAH: So I would be happy with whatever you
3 could grant, but the main thing is to protect our health, and
4 the city is not doing it. They're the ones -- and I tried to
5 get answers yesterday. It's interesting. You don't get
6 consistent answers going from one place to the other.

7 THE COURT: All right. Ma'am, in the circumstances,
8 I am going to sustain the city's objection to your claim.
9 Your amended claim is filed too late, and it does not have
10 sufficient evidence to support it, and neither does the
11 original claim, so in the circumstances I'm going to disallow
12 your claim.

13 MS. DARRAH: Well, what would it take to support it?

14 THE COURT: Well, I can't give you that advice.

15 That's something you'd need to ask a lawyer. All I can tell
16 you is that what you have submitted --

17 MS. DARRAH: Well, yeah. The original claim --

18 THE COURT: Let me just finish my sentence.

19 MS. DARRAH: I have here what they spent.

20 THE COURT: What I can tell you is that what you
21 have submitted is not sufficient.

22 MS. DARRAH: They spent about that much with these
23 two contracts for the Rizzo, and that's approximately what
24 they spent for one year.

25 THE COURT: All right.

1 MS. DARRAH: No. That's a five-year contract. I'm
2 sorry. So that's approximately what they spent, but what I
3 wanted was that we have some way that the citizens can become
4 involved in their own survival, and right now we don't have
5 that.

6 THE COURT: Well, I appreciate that, but that's all
7 we can do here today. That's all we can do here today.

8 MS. DARRAH: That's not enough.

9 THE COURT: That's all we can do here today.

10 MS. DARRAH: All right. Okay.

11 THE COURT: Please take your seat now, ma'am.

12 MS. DARRAH: It goes out in the suburbs, too, if you
13 live out there. It goes everywhere, Great Lakes, everything.

14 THE COURT: Mr. Simon.

15 MR. SIMON: Yes, your Honor. Moving on to the next
16 set of objections, the Woodberry claimants' objections is
17 Claim Numbers 3278, 3271, 3006, 2905, 2902, 2889, 2888, 2883,
18 2880, and 2846. Those are ten claims filed for a total of
19 \$12 million by members of the Woodberry family. They filed
20 these claims initially, your Honor, just listing eminent
21 domain as a reason on one page of the proof of claim without
22 any backup saying the city took -- quote, "The city took real
23 property without paying just compensation." We objected to
24 the claims because we couldn't tell at all anything about
25 them. We couldn't tell what real property this was or what

1 the situation was.

2 And the Woodberrys did file responses. The
3 responses identified the property -- the subject property as
4 2457 Beaubien. We did some digging on the city's end, your
5 Honor, and determined that property was the subject of a
6 condemnation proceeding that started back in 2005. The
7 claimants in this case were parties to that litigation over
8 condemnation, and in April 2009 after years of that
9 litigation, the Wayne County Circuit Court entered an order
10 confirming that title to the property had vested in the city,
11 and they ordered payment of \$240,000, which the city paid,
12 and so the claimants had totally omitted that from their
13 claim, but we did determine what -- you know, some background
14 on it. There is no basis for any further claims because the
15 April 2009 order also says that it is with prejudice to any
16 other claims against the city with respect to the property.
17 It says, quote, "This judgment shall be with prejudice to any
18 further assertion of claims by defendants against the city
19 arising directly or indirectly in whole or in part from the
20 taking of the subject property." I would note that we had an
21 acknowledgement which we filed as well by Ms. Edith
22 Woodberry, who filed the biggest one of the claims for \$3
23 million, that acknowledged that she received full payment.
24 So, your Honor, we would object to this claim. It's baseless
25 in that there's no basis for any further liability or claim

1 against the city as evidenced by the April order from 2009.

2 THE COURT: Thank you. Are any members of the
3 Woodberry family here or anyone representing them?

4 MR. CRANSTON WOODBERRY: Good morning, your Honor.
5 I'm Cranston Woodberry.

6 MS. EDITH WOODBERRY: Good morning. I'm Edith
7 Woodberry.

8 MR. LA JEFF WOODBERRY: Excuse me, your Honor. Good
9 morning, your Honor. I'm LA Jeff Woodberry.

10 THE COURT: All right. So the city contends that
11 you already got paid for this property through the
12 condemnation proceeding in court.

13 MS. EDITH WOODBERRY: Your Honor, I had received
14 from the city by express mail I think the day before
15 yesterday his statements, and I filed a -- prepared a
16 response, but I don't know how to give it to the city, Judge.

17 THE COURT: I'll have a --

18 MS. EDITH WOODBERRY: Can you give a copy to him or
19 the -- but the answer is that --

20 THE COURT: If you want me to, I'll have a look at
21 it, ma'am.

22 MS. EDITH WOODBERRY: I would appreciate it.

23 THE COURT: All right.

24 MS. EDITH WOODBERRY: And there's one for the city's
25 attorney.

1 THE COURT: Mr. Simon, Ms. Woodberry has one for
2 you, too.

3 MR. SIMON: Thank you, your Honor.

4 MS. EDITH WOODBERRY: I wasn't seeking oral argument
5 because I know I'm not a -- I'm in here in pro per. I'm not
6 any way capable of matching what was said here today, but I
7 will say that the purpose of me filing that claim was to put
8 Bankruptcy Court on notice that we had an action in a lower
9 court, in the state court, and that I wanted -- I don't know
10 the rules of the Bankruptcy Court, so, therefore, I didn't
11 want to have this rejected in the state court because the
12 action should have been brought to you. My suggestion or
13 hope would be that you would dismiss or accept, receive for
14 Bankruptcy Court's information the fact that we do have
15 something and maybe let it go back to state court or dismiss
16 it for lack of --

17 THE COURT: What is there left for the state court
18 to do?

19 MS. EDITH WOODBERRY: Well, now, the state court in
20 its -- the state court has not issued a final order, so,
21 therefore, we cannot appeal the --

22 MR. CRANSTON WOODBERRY: The judgment.

23 MS. EDITH WOODBERRY: -- the judgment. We can't
24 appeal the judgment because she has not issued a final -- she
25 says that that judgment is not a final order. If you look at

1 the bottom of plaintiff's -- the city's --

2 MR. CRANSTON WOODBERRY: Exhibit 1, the April 28th,
3 2009, judgment.

4 THE COURT: Okay.

5 MS. EDITH WOODBERRY: It's a citizen's --

6 THE COURT: I will look at that. Give me one
7 second, please.

8 MS. EDITH WOODBERRY: Okay. Well, actually, I'm not
9 capable of maybe presenting an oral argument against what he
10 was saying here because I couldn't hear him in the back, and
11 what he wrote, I responded to that.

12 THE COURT: I do see the language you are referring
13 to. It says, "Pursuant to Rule 2.602(a)(3), this judgment
14 does not resolve the last of any claims, and it does not
15 close the case." That's the language you're talking about?

16 MS. EDITH WOODBERRY: Yes.

17 THE COURT: Okay. Let me ask Mr. Simon about that.
18 Mr. Simon. Ms. Woodberry, let me just ask you to step a
19 little bit to the side so Mr. Simon can use the microphone
20 there. Thank you very much.

21 MR. SIMON: Your Honor, actually the city law
22 department is right now looking at the status of that case.
23 I had interpreted that language to be separate from the
24 condemnation and separate from any payment related to the
25 eminent domain, which is clearly set forth in the order as

1 being exclusively handled, and the order was entered on a
2 final basis. It calls for the resolution of all the claims
3 by the payment of \$240,000, and so I don't think that the --

4 THE COURT: You don't know what's left to be done?

5 MR. SIMON: I don't know of anything left to be
6 done.

7 MR. CRANSTON WOODBERRY: Well, your Honor, the
8 problem is --

9 THE COURT: No. One second. So you don't know that
10 there isn't anything left to be done?

11 MR. SIMON: I cannot say that, your Honor. Based on
12 that language, I have a -- yes. That's correct.

13 THE COURT: I'm sorry to have interrupted you, sir.
14 What were you going to say?

15 MR. CRANSTON WOODBERRY: Well, he just answered the
16 question. We do have an appeal of right.

17 THE COURT: Stand right by that microphone.

18 MR. CRANSTON WOODBERRY: I'm sorry. We do have an
19 appeal of right, and the other issue is that there were
20 certain people who had an interest in that property that were
21 not brought into the action by the City of Detroit, and --

22 THE COURT: And who were those people?

23 MR. CRANSTON WOODBERRY: This is the one person
24 right there, Jeff Woodberry.

25 MR. LA JEFF WOODBERRY: LA Jeff Woodberry. And I

1 never was brought into the action.

2 THE COURT: Um-hmm.

3 MR. LA JEFF WOODBERRY: (Inaudible) for the
4 property.

5 THE COURT: Well, Mr. Simon, in the circumstances,
6 subject to further development of our record here, I think I
7 have to overrule your objection and abstain from any further
8 action by this Court in the matter to allow the state court
9 to do whatever is left to be done in the case. And if there
10 is ever a final judgment in the sense that all appeals have
11 been exhausted, then we can sustain the objection assuming
12 the judgment is in the city's favor.

13 MR. SIMON: Your Honor, there's been no appeal. The
14 order was entered in 2009.

15 THE COURT: Right, but there's a question about
16 whether this is a final appealable judgment because it says
17 the judgment does not resolve the last of any claims, and it
18 doesn't close the case.

19 MR. SIMON: And, your Honor, would it be possible to
20 set a briefing schedule on substantive response to the claim
21 objection, you know, based on --

22 THE COURT: No. I'm going to abstain --

23 MR. SIMON: Okay.

24 THE COURT: -- and allow the state court to make a
25 final determination on the issues.

1 MR. SIMON: Thank you, your Honor.

2 THE COURT: I can't tell, based on this record,
3 what's left let alone decide it. All right. I'll prepare an
4 appropriate order. So you should go back to state court and
5 try to work with the judge there on resolving whatever is
6 left to be resolved so you can get on with your appeal.

7 MR. CRANSTON WOODBERRY: Thank you, your Honor.

8 THE COURT: Do you have an attorney in that case?

9 MR. CRANSTON WOODBERRY: I was appearing as the
10 attorney in that case, your Honor, yes.

11 THE COURT: Okay. All right.

12 MR. SIMON: Your Honor, if I may, just one further
13 note, is it -- the claim really should be contingent, though,
14 at best, and unliquidated rather than have a certain dollar
15 figure.

16 THE COURT: Yes.

17 MR. SIMON: Okay.

18 THE COURT: At this point it's not fixed at all.

19 MR. SIMON: Exactly. I just wanted to be clear
20 about that. Thank you.

21 THE COURT: All right. I'll make sure the order
22 says that.

23 MR. SIMON: And, your Honor, the final matters that
24 we have, your Honor, are in respect of Macomb Interceptor
25 Drain District. This is probably the thorniest area. We are

1 in something of a spot in that the claim was filed by Macomb
2 Interceptor on May 5th, and our deadline to object to claims
3 in connection with the plan and to have the whole plan
4 process in respect of claims where we couldn't validate where
5 they're significant and could impact voting, we had to
6 address that and filed the objections on May 15th, so we have
7 not had time really to dig into the substance other than to
8 note that it's a huge claim. We think we have good arguments
9 against the claim, including res judicata, for the reasons we
10 stated in our papers. And, you know, we think that there's
11 somewhat -- there's some gamesmanship going on with the
12 timing, but we are in a situation where we just can't allow a
13 claim in the amount of \$26 million to be voted under the plan
14 without any demonstration of the evidence and certainly not
15 for distribution purposes either, so both those issues kind
16 of tie in together, and we object to the claim because we
17 can't see the validity of it.

18 THE COURT: Well, in the past what I have done in
19 these situations is to estimate the claim for voting
20 purposes, and the procedure that I have used in the past and
21 that I request your input on is to allow counsel to file a
22 brief in support of whatever estimation amount they assert
23 supported by whatever affidavits and documents they wish the
24 Court to consider in support of that estimation amount and
25 then to give each side a specific and limited amount of time

1 to argue their estimation amount, and then I choose a number.

2 MR. SIMON: That makes sense to me, your Honor, and
3 I believe we talked about a process along those lines leading
4 up to the hearing.

5 THE COURT: And the timing in all of that is subject
6 to your input as well.

7 MR. BRILLIANT: Yes. Thank you, your Honor. Allan
8 Brilliant from Dechert on behalf of Macomb Interceptor. I'm
9 joined by Raechele Badalamenti, whose appearance I had put on
10 the record earlier --

11 THE COURT: Yes.

12 MR. BRILLIANT: -- who is the counsel who's been
13 handling this in state court, your Honor. We had reached out
14 after we filed the motion and received the objection from the
15 city about a process, and we came up with something very
16 similar to what your Honor had suggested with one caveat,
17 which is that we had asked for -- that there be some limited
18 amount of discovery and the opportunity to take a couple of
19 depositions and get a small amount of documents which we
20 could attach to the -- you know, to our brief, and then our
21 expectation is that we would attach our declarations and any
22 deposition designations that we felt were relevant and that
23 that could be the basis of the -- you know, of the hearing.
24 The one thing -- and Mr. Simon alluded to it -- is we really
25 don't know at this point what their objection is, so we are a

1 little bit concerned that we could end up in a situation
2 where we prove up our case based on the elements of our
3 claims and they come up with something as a defense that
4 we're not aware of, so either we would ask that we have the
5 opportunity to file a reply brief or, alternatively, that at
6 some point before we have to file our papers they tell us
7 what it is --

8 THE COURT: Well, I have to be considerate of the
9 city's position here given how long it took your client to
10 file this proof of claim and the time pressure that we are
11 under to fix an estimation, and this is just an estimation
12 for voting purposes, not for distribution purposes.

13 MR. BRILLIANT: We understand, your Honor. I think
14 one thing just to make the record clear on the date, we filed
15 the complaint before the bankruptcy, so it's not as if they
16 weren't aware of the fact that we had a complaint, that there
17 was a state court proceeding that existed before the
18 bankruptcy filing, and then we filed the proof of claim
19 within the intergovernmental, you know -- you know -- you
20 know, bar date, so it's not as if it's a late proof of claim.
21 And there was a proceeding in front of Judge Cleland, and the
22 city was represented in all these matters by Miller Canfield,
23 so it's not as if the city wasn't aware of the claim or the
24 facts leading up to the claim, but we do recognize that there
25 are -- you know, that this is time-sensitive material.

1 THE COURT: Well, but you could have filed the proof
2 of claim on July 19th, too.

3 MR. BRILLIANT: July -- the last possible date,
4 2014, you're talking -- or you're talking about the first
5 possible --

6 THE COURT: July 19th, 2013, the day after they
7 filed the bankruptcy, you could have filed a proof of claim.
8 All right. Do you have a proposed schedule in mind? Have
9 you gotten so far as to discuss that?

10 MR. BRILLIANT: We have, your Honor. You know,
11 the -- you know, the city had requested that it be the week
12 of the 14th. You know, we would --

13 THE COURT: That what would be the week of the 14th?

14 MR. BRILLIANT: You know, the -- you know, the
15 hearing.

16 THE COURT: All right.

17 MR. BRILLIANT: And we --

18 THE COURT: So start there and work backwards.

19 MR. BRILLIANT: And we had proposed that it be, you
20 know, the -- you know, the following week, the week of the
21 21st, or, you know -- because we just think that your Honor
22 has a busy calendar. We all -- you know, you have hearings
23 on Monday, Tuesday, and Wednesday, I believe, in connection
24 with the case, and, you know, we have other --

25 THE COURT: Thursday.

1 MR. BRILLIANT: We have other issues as well, so we
2 thought the following week would work better and then work
3 backwards from there, your Honor, so our sense is if we get a
4 reply brief or some statement from them as to what the claim
5 is, that would --

6 THE COURT: Let's start with the hearing date.

7 MR. BRILLIANT: Yes, your Honor.

8 THE COURT: It would be very hard for me to do it
9 before Monday, July 21st. Is that okay?

10 MR. ELLMAN: If I might, your Honor, Mr. Simon asked
11 that I address this issue. With your Honor's scheduling of
12 the plan, various plan deadlines, our voting results are due
13 on the 21st, and so our strong preference would be to have a
14 number for this claim for voting purposes before we have to
15 certify the voting results, so if at all possible our
16 suggestion would be, obviously subject to your calendar, to
17 have an answer by the 18th, which is the last business day
18 before the 21st. Voting is due on the 11th. Ideally it
19 would be even better to have it before then, but I think they
20 can vote their claim subject to your Honor's decision. If we
21 can't have a hearing before the 11th, I do think that
22 following week it would be, in the city's view, important to
23 have the final voting results, have a number to put in that
24 tabulation affidavit on the 21st. Obviously it's a very
25 tight time frame. I assume the hearing would be relatively

1 truncated and short. A lot of it would be done on the
2 papers. But obviously that's subject to your calendar, which
3 I'm sure is crowded. I know there's several things that week
4 of the 14th already, legal arguments of the individual
5 claimants, et cetera, so -- but if it worked in that week, it
6 would be a preference.

7 THE COURT: Well, all right. I do have a brief
8 opening at two o'clock on the 17th.

9 MR. BRILLIANT: Can I respond on the timing, your
10 Honor, before your Honor rules on the date?

11 THE COURT: Um-hmm.

12 MR. BRILLIANT: You know, it seems to me that, you
13 know, it's just -- I'm just going to state the obvious.
14 There's one of three possibilities that'll occur here.
15 Either the voting will be such no matter what amount we vote
16 that the class approves or the voting will be no matter what
17 we vote that the class rejects or the other possibility is
18 that it will either be approved or not approved. The class
19 will either, you know, accept or not accept based on the
20 amount that we vote. On the -- they have to file their paper
21 on the 21st. To the extent that it matters, that if it falls
22 into the third category, they could just put a footnote and
23 then just say, you know -- you know, Macomb has voted, you
24 know, the amount that -- you know, purports to have voted the
25 amount that it thinks it's owed, \$26 million, and based upon,

1 you know, the Court's ruling, it may change the results, and
2 I don't see, given that the confirmation hearing isn't
3 starting until, you know, a month later, that it really
4 matters whether the hearing be on the 21st or the 17th or the
5 22nd or whatever date works best for your Honor, but my sense
6 is that a little more time, you know, will make for better
7 submissions to your Honor, give us the opportunity
8 potentially to file either a reply brief because I know
9 they're really telling us -- you know, as they said to you,
10 they really can't tell us what their issues are.

11 THE COURT: Remind me what class your claim is in or
12 his claim is in?

13 MR. BRILLIANT: I believe it's other general
14 unsecured claims. I think it's Class 14. I always get 14
15 and 15 confused, but it's -- is it 14?

16 MR. ELLMAN: It's Class 14, your Honor.

17 MR. BRILLIANT: 14.

18 MR. ELLMAN: And our concern in part is that this --
19 we don't know who's going to vote, but even if every party
20 voted who is entitled to vote in that class, this would at
21 the level of \$26 million be among, if not the largest claim
22 in the class, so it's fundamentally important that we know
23 the answer to that question, I think, if we're having a
24 real --

25 THE COURT: Well, there's no chance you're going to

1 vote for the plan; right?

2 MR. BRILLIANT: No, your Honor. And for what it's
3 worth, your Honor, they estimate \$150 million -- in the
4 disclosure statement they estimate the class would be \$150
5 million, so it is not as if we have blocking power in this
6 class --

7 THE COURT: No, but --

8 MR. BRILLIANT: -- even if your Honor allowed it at
9 26 million.

10 THE COURT: 26 out of 150 is a significant
11 percentage.

12 MR. ELLMAN: It also depends on who votes, your
13 Honor.

14 MR. BRILLIANT: Correct, your Honor. I'm not -- we
15 wouldn't be having, you know, this issue if it was
16 irrelevant.

17 THE COURT: Whose depositions are you talking about?

18 MR. BRILLIANT: There's two or three. You know, our
19 issue -- did your Honor, you know, read the papers, and were
20 they understandable as to what the claim is?

21 THE COURT: Um-hmm.

22 MR. BRILLIANT: Yeah. So, you know, there's two or
23 three possible depositions we would want. They would relate
24 to the people who negotiated, you know, the transaction, you
25 know, what the representations were, what was said, and also

1 what was known about, you know, the -- you know, the --

2 THE COURT: Um-hmm.

3 MR. BRILLIANT: -- you know, the fraud.

4 THE COURT: Do you have specific names?

5 MR. BRILLIANT: We do. We haven't figured out, your
6 Honor, exactly who we would need, but it's likely to be
7 someone in the group of Mark Jacobs from Dykema, who's the
8 lawyer who negotiated this on behalf of the city, you know,
9 DWSD, and/or, you know, Robert Walker, who was the
10 corporation counsel who was involved, and then possibly one
11 of -- there's two, you know, engineers or two business people
12 who are involved, R.C. Shukla and/or Victor Mercado, but our
13 sense is, you know, we may do these as -- and also -- you
14 know, and, again, your Honor, we talked to the other side
15 about two, maybe three, and --

16 MR. ELLMAN: Darryl Latimer?

17 MR. BRILLIANT: -- and possibly Darryl Latimer,
18 who's the person who executed the agreement, although we're
19 not certain at this point that he was involved in the
20 discussions.

21 THE COURT: Um-hmm.

22 MR. BRILLIANT: You know, we may do this by, you
23 know, a 30(b)(6) and let them tell us who the people are who
24 have the most knowledge or we may, you know -- you know --
25 you know, designate them, but it would be very short,

1 limited, you know -- you know, depositions just geared to,
2 you know, certain, you know -- you know, key facts that may
3 or may not be in dispute. A lot of this came out in the
4 criminal investigation and in connection with the other
5 litigation, but we're not exactly sure what their position is
6 with respect to the negotiations and, you know, who knew what
7 and when.

8 THE COURT: Well, I'm inclined to think there is
9 merit in the city's position that it is important, to the
10 extent it's feasible, to pin down claims before it is
11 required to certify the balloting, so in the circumstances I
12 am going to set a hearing, tough as it is on us, for July
13 17th at two o'clock and ask you to submit your briefs and
14 supporting evidence by Monday, the 14th. And I'll permit the
15 limited discovery that you have suggested is necessary.

16 MR. BRILLIANT: And, your Honor, can we either -- I
17 guess it doesn't -- can we file a reply brief on the morning
18 of the 17th or --

19 THE COURT: Yes. That's fine, and we'll deal as
20 best we can.

21 MR. BRILLIANT: Thank you, your Honor. Your Honor,
22 the other thing that was up for today was the objection, you
23 know, to the ultimate allowance of the claim, which, you
24 know, is not anything of great import before the confirmation
25 hearing. I don't know what your Honor was, you know,

1 planning to do with that, but we would be agreeable to
2 having, you know, that hearing date set for some time at the
3 convenience of the Court and the city.

4 THE COURT: Well, I think -- yeah. I think that
5 whole process is subject to the discovery you would have as
6 if it were a regular civil suit; right?

7 MR. BRILLIANT: Correct, your Honor.

8 THE COURT: So I don't foresee resolving that in any
9 kind of expedited time frame at all.

10 MR. BRILLIANT: No, no, and we don't either, your
11 Honor. If I misspoke, that's what I was trying to say to
12 your Honor.

13 THE COURT: Okay.

14 MR. BRILLIANT: I was just saying from a case
15 management perspective, I just didn't want it to get lost.
16 And I don't know what your Honor's --

17 THE COURT: Well, let's have a conversation about
18 that. I mean normally I would set a discovery deadline, a
19 final pretrial conference, and a trial. Did you have any
20 thoughts on that?

21 MR. BRILLIANT: Yes, your Honor. We have talked to
22 the other side about it. We think that they either should --
23 you know, there is a complaint that has been filed. They
24 should either, you know, answer the allegations in the
25 complaint or file some kind of motion to dismiss so that, you

1 know -- and we're not talking about any time -- you know,
2 we're not saying in the next 30 days or anything of that sort
3 unless your Honor, you know, wants to move this along. We're
4 not insisting on that but that there should be some kind --

5 THE COURT: Doesn't the objection to the claim
6 identify what their legal or factual disputes are?

7 MR. BRILLIANT: No, your Honor. It just says that
8 they will vigorously oppose the claim that they -- you know,
9 and that they think there may be a res judicata argument.

10 THE COURT: Mr. Simon, are you responsible for the
11 representation of the city in this matter?

12 MR. SIMON: Your Honor, it's still being determined
13 who's going to represent the city in terms of actual
14 determination on the issues. I would say -- what I was
15 thinking is we go through this process in the 3018, and the
16 parties will have time then to determine what process they
17 want to use going forward in terms of the actual substance of
18 the claim. I think it may be valuable to allow the parties
19 to have those discussions and see if they can come to an
20 agreement about how the claim would be handled on the
21 substantive basis for distribution purposes since they are
22 two separate processes, the 3018 and the --

23 THE COURT: Well, all right. Let's just adjourn
24 this until October 1st then, but I do want from the city
25 before then -- and we'll agree upon a date -- a much more

1 specific objection to the claim --

2 MR. SIMON: Understood, your Honor.

3 THE COURT: -- that admits and denies the
4 allegations of the complaint and asserts affirmative
5 defenses.

6 MR. SIMON: Understood. Thank you, your Honor.

7 THE COURT: So what's a reasonable date? Two weeks
8 before that?

9 MR. SIMON: Yes.

10 THE COURT: Chris, help me out.

11 THE CLERK: September 17th.

12 MR. SIMON: Good.

13 THE COURT: And then at this October 1st status
14 conference, we can discuss the case management issues that
15 Mr. Brilliant has raised here today.

16 MR. SIMON: Thank you, your Honor.

17 MR. BRILLIANT: Thank you, your Honor.

18 THE COURT: Okay.

19 MR. SIMON: I believe that's all we had, your Honor,
20 unless you have anything else.

21 THE COURT: No. I'm all set then.

22 MR. SIMON: All right. Thank you very much.

23 MR. BRILLIANT: Thank you, your Honor.

24 THE COURT: Thank you.

25 THE CLERK: All rise.

1 (Proceedings concluded at 10:53 a.m.)

2 * * *

INDEX

WITNESSES:

None

EXHIBITS:

None

I certify that the foregoing is a correct transcript from the sound recording of the proceedings in the above-entitled matter.

/s/ Lois Garrett

June 30, 2014

Lois Garrett

IN THE UNITED STATES
 BANKRUPTCY COURT
 EASTERN DISTRICT OF MICHIGAN
 SOUTHERN DIVISION

In re:
 CITY OF DETROIT
 MICHIGAN
 Debtor

CHAPTER
 CASE NO 13-~~7~~²38846
 HON STEVEN Rhodes
NOTICE OF APPEAL

U.S. BANKRUPTCY COURT
E.D. MICHIGAN

2014 JUL 14 P

FILED

Claimant (#458) ALBERT O'Rourke
 herein appeals to the Federal
District Court for the EASTERN
District of Michigan, Southern Division
 The Denial of O'Rourke's claim
 on/about June 25, 2014

DATED July 3, 2014
In forma pauperis

Plaintiff
 ALBERT O'Rourke
 2316 PASCO DE LAURA
 #223

13-53846-swj Doc 5995 Filed 07/14/14 Entered 07/14/14 14:58:23 (Page 1 of 2)
 13-53846-swj Doc 66882 Filed 08/07/14 Entered 08/07/14 16:19:55 (Page 96 of 99)

Albert O'Rourke
2316 PASEO DE LA VIDA
Oceanside, CA. 92056 #223
(760) 453-228

FILED

2014 JUL 14 P 2:44

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF CALIFORNIA
DIVISION OF OCEANSIDE, CALIFORNIA
EASTERN DISTRICT OF MICHIGAN
DETROIT DIVISION

U.S. BANKRUPTCY COURT
E.D. MICHIGAN-DETROIT

CITY OF DETROIT, MICHIGAN

Date:

BANKRUPTCY NO. 13-53846

Plaintiff(s)

ADVERSARY NO.

Defendant(s)

278

PROOF OF SERVICE

for my order
a Civil Cover Sheet
NOTICE OF APPEAL

I, AL O'Rourke

certify that I am, and at all times during the service of process was,
less than 18 years of age and not a party to the matter concerning which service of process was made. I further certify that
I served a copy of the following documents (describe each document served):

Claimant ALBERT O'Rourke

RECEIVED - 7/11/2014 - # 450

July 3, 2014 by:

[date] * July 11, 2014

Notice of Appeal

Mail Service - Regular, first class United States mail, postage fully pre-paid, addressed to:

CLERK, U.S. BANKRUPTCY COURT
211 WEST FORT STREET, SUITE 2100, DETROIT, MICHIGAN
48226

Personal Service - By leaving the documents with the following named person(s) or an officer or agent of the person(s) at:

ORIGINAL AND COPY(IES)

2 Foley and Lardner LLP - John Simard, Esq.
Residence Service - By leaving the documents with the following adult at:
500 WOODWARD AVE - SUITE 27000
DETROIT, MICHIGAN 48226

Under penalty of perjury, I declare that the foregoing is true and correct.

AL O'Rourke

July 3, 2014

[Date] * REC'D - JUN 11 2014
TO U.S. BANKRUPTCY COURT CLERK

(Signature) AL O'Rourke

int Name	AL O'Rourke
Business Address	2316 PASEO DE LA VIDA #223
City, State, Zip	OCEANSIDE, CA. 92056

In re: *City of Detroit*
Michigan

Case No.:

Debtor.

13-53846

Albert O'Rourke

Adv. No.:

Appellant,

v.

Appellee.

City of Detroit

CAUSE OF ACTION/NATURE OF SUIT: (This matter is referred to the district court for the following reasons)

- | | | |
|-------------------------------------|-----------------------------|--------------------------------------------------|
| <input checked="" type="checkbox"/> | [422] 28 U.S.C. 158 | <u>Bankruptcy Appeal</u> |
| <input type="checkbox"/> | [422] 28 U.S.C. 158 | Motion for Leave to Appeal |
| <input type="checkbox"/> | [423] 28 U.S.C. 157(d) | Motion for Withdrawal of Reference |
| <input type="checkbox"/> | [423] 28 U.S.C. 157(c) (1) | Proposed Findings of Fact and Conclusions of Law |
| <input type="checkbox"/> | [423] 28 U.S.C. 158 (c) (a) | Order of Contempt |

Date:

July 11, 2014

Name:

O'Rourke
ALBERT O'Rourke

Name and Address of Interested Parties